

House Bill 257 (AS PASSED HOUSE AND SENATE)

By: Representatives Scoggins of the 14th, Gambill of the 15th, Silcox of the 52nd, Kelley of the 16th, Fleming of the 121st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
2 magistrate courts, so as to increase the authority by which the Council of Magistrate Court
3 Judges can organize itself and provide for officers; to remove outdated provisions; to revise
4 the bond amount required for each magistrate; to revise qualifications of magistrates; to
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to magistrate
9 courts, is amended by revising subsection (a) of Code Section 15-10-7, relating to the
10 Council of Magistrate Court Judges, as follows:

11 "(a) There is created a council of magistrate court judges to be known as the 'Council of
12 Magistrate Court Judges.' The council shall be composed of the chief magistrates,
13 magistrates, and senior magistrates of the magistrate courts of this state. The council is
14 authorized to organize itself and to develop a constitution and bylaws. ~~The officers of said~~
15 ~~council shall consist of a president, a first vice president, a second vice president, a~~
16 ~~secretary, a treasurer, and such other officers as the council shall deem necessary. The~~
17 ~~council shall have an executive committee composed of two representatives from each~~
18 ~~judicial administrative district. No senior magistrate shall serve as an officer of the council~~
19 ~~or as a regular representative of a judicial administrative district to the executive committee~~
20 ~~of the council."~~

21 **SECTION 2.**

22 Said chapter is further amended by revising Code Section 15-10-20, relating to number,
23 selection, term, filing vacancies, chief magistrate, bonds, and certain judges removed by
24 federal court order to become special judges, as follows:

25 "15-10-20.

26 (a) Each magistrate court shall have a chief magistrate and may have one or more other
 27 magistrates. Such magistrates shall be the judges of the magistrate court and shall be
 28 known as magistrates of the county. Unless otherwise provided by local law, the number
 29 of magistrates in each county shall be fixed from time to time by majority vote of the
 30 judges of the superior court of the county, but no magistrate shall be removed from office
 31 during a term of office except for cause as provided by Code Sections 15-10-24 and
 32 15-10-25. The number of magistrates authorized for the county shall be one magistrate
 33 until increased by the judges of superior court or by local law; but this subsection shall not
 34 operate to remove a magistrate from office during his or her term of office.

35 ~~(b) The term of office of any magistrate taking office prior to January 1, 1985, shall expire~~
 36 ~~on December 31, 1984, except that this subsection shall not operate to shorten any term of~~
 37 ~~office in violation of Article VI, Section X, Paragraph II of the Constitution. The term of~~
 38 ~~office of any magistrate taking office on or after January 1, 1985, shall be for four years~~
 39 ~~beginning on the first day of an odd-numbered year, except that in selecting magistrates to~~
 40 ~~fill newly created positions or if otherwise necessary, a magistrate may be selected for a~~
 41 ~~term of less than four years to expire on the last day of an even-numbered year.~~

42 ~~(c)(1) Unless otherwise provided by local law, all magistrates, other than the officers~~
 43 ~~becoming magistrates pursuant to Code Section 15-10-120, who are selected to take office~~
 44 ~~prior to January 1, 1985, shall be selected as provided in this subsection. The judges of the~~
 45 ~~superior court of the county shall by majority vote appoint as chief magistrate either an~~
 46 ~~officer becoming a magistrate pursuant to Code Section 15-10-120 or some other person~~
 47 ~~meeting the qualifications specified in subsection (a) of Code Section 15-10-22. Any other~~
 48 ~~magistrates, other than the officers becoming magistrates pursuant to Code Section~~
 49 ~~15-10-120, shall be appointed by the chief magistrate with the consent of the judges of~~
 50 ~~superior court.~~

51 ~~(2)(A) If the chief magistrate so selected is an officer becoming a magistrate pursuant~~
 52 ~~to Code Section 15-10-120, then his term as chief magistrate will be as provided by this~~
 53 ~~paragraph.~~

54 ~~(B) If the term which he was serving on June 30, 1983, will expire on the last day of~~
 55 ~~1984 or 1986, then his term as chief magistrate will likewise expire on the last day of~~
 56 ~~1984 or 1986.~~

57 ~~(C) If the term which he was serving on June 30, 1983, will expire other than on the~~
 58 ~~last day of 1984 or 1986, then his term as chief magistrate shall expire on December 31,~~
 59 ~~1984, even though he is granted a longer term as magistrate by Article VI, Section X,~~
 60 ~~Paragraph II of the Constitution; but his term as magistrate shall not be shortened in~~
 61 ~~violation of said Paragraph of the Constitution. In any case covered by this~~

62 ~~subparagraph, the person whose term as chief magistrate expires December 31, 1984,~~
 63 ~~but who is granted by the Constitution a longer term as magistrate shall be eligible to~~
 64 ~~succeed himself for a four-year term as chief magistrate beginning January 1, 1985, if~~
 65 ~~he resigns his current term as magistrate prior to beginning such four-year term as chief~~
 66 ~~magistrate.~~

67 ~~(d)~~(c) Unless otherwise provided by local law, all magistrates taking office on or after
 68 January 1, 1985, shall be selected as provided in this subsection. The chief magistrate shall
 69 be elected by the voters of the county at the general election next preceding the expiration
 70 of the term of the incumbent chief magistrate, in a partisan election in the same manner as
 71 county officers are elected, for a term beginning on the first day of January following his
 72 or her election. His or her successors shall likewise be elected quadrennially thereafter for
 73 terms beginning on the first day of January following their election. Magistrates other than
 74 the chief magistrate shall be appointed by the chief magistrate with the consent of the
 75 judges of superior court. The term of a magistrate so appointed shall run concurrently with
 76 the term of the chief magistrate by whom he or she was appointed.

77 ~~(e)~~(d) Unless otherwise provided by local law, a vacancy in the office of chief magistrate
 78 shall be filled by an appointment by majority vote of the judges of superior court for the
 79 remainder of the unexpired term; and a vacancy in the office of any other magistrate shall
 80 be filled by an appointment by the chief magistrate with the consent of the judges of
 81 superior court for the remainder of the unexpired term. If, however, a vacancy occurs
 82 which does not reduce the number of magistrates for the county below the number of
 83 magistrates authorized for the county, then such vacancy shall not be filled.

84 ~~(f)~~(e) The General Assembly may by local law provide for the number of magistrates of
 85 a county, provide for a different method of selecting magistrates than that specified in
 86 ~~subsections (e) and~~ subsection (d) of this Code section, and provide for a different method
 87 of filling vacancies than that specified in subsection ~~(e)~~ (d) of this Code section.

88 ~~(g)~~(f) The General Assembly may at any time provide by local law that the probate judge
 89 shall serve as chief magistrate or magistrate and provide for compensation of the probate
 90 judge in his or her capacity as chief magistrate or magistrate; and in such a case the chief
 91 magistrate or magistrate shall not be separately elected but shall be the probate judge.

92 ~~(h)~~(g) Each magistrate taking office after July 1, 1985, shall before entering on the
 93 performance of his or her duties execute bond in the amount of ~~\$25,000.00~~ \$100,000.00
 94 for the faithful performance of his or her duties. Each magistrate in office on July 1, 1985,
 95 shall execute such a bond not later than September 1, 1985. The amount of bond required
 96 of the magistrate or magistrates of any county may be increased by local law. Such bonds
 97 shall be subject to all provisions of Chapter 4 of Title 45 in the same manner as bonds of

98 other county officials. The premiums due on such bonds shall be paid by the fiscal
99 authority of the county out of county funds.

100 ~~(i)(1) Any person who is holding office on January 1, 1994, as a judge of the superior
101 courts of this state, whether within the term for which elected or appointed or otherwise,
102 and who subsequent to such date and prior to December 31, 1996, is effectively removed
103 from such office by federal court order shall upon such removal become a special judge
104 of the magistrate court as provided for in this subsection. As used in this subsection, the
105 term 'federal court order' shall mean only an order of a federal court which is entered in
106 a civil action challenging under federal law or federal constitutional provisions (or both)
107 the validity of the manner of selection of superior court judges in this state. A person
108 shall be considered as effectively removed from office by such an order if the order by
109 its terms prohibits such person's continued service as a judge of the superior courts
110 without by the terms of the order allowing such person a meaningful opportunity to seek
111 an appointment or election as a judge of the superior courts which would take effect
112 within 30 days following such removal. Nothing in this subsection shall apply with
113 respect to any removal from office resulting from criminal conduct or other malfeasance
114 on the part of the person removed from office.~~

115 ~~(2) Any person becoming a special judge of the magistrate court pursuant to this
116 subsection shall become a special judge of the magistrate court of the county in which
117 such person resides. Any such special judge of the magistrate court shall serve for a term
118 of office expiring December 31, 1996. The Governor shall issue to each such special
119 judge of the magistrate court a commission stating the date of commencement and
120 expiration of such term of office.~~

121 ~~(3) Any special judge of the magistrate court serving pursuant to this subsection shall
122 have all the same powers and duties as any other judge of such magistrate court.~~

123 ~~(4) Any special judge of the magistrate court serving pursuant to this subsection shall be
124 compensated and reimbursed for expenses in such amount or amounts as are now or
125 hereafter provided by law for a judge of the superior courts, such compensation to be
126 payable from state funds in the same manner as now or hereafter provided by law for a
127 judge of the superior courts.~~

128 ~~(5) The provisions of this subsection shall control over any other conflicting provisions
129 of this chapter."~~

130 **SECTION 3.**

131 Said chapter is further amended by revising Code Section 15-10-22, relating to qualifications
132 and restrictions on practice of law, as follows:

133 "15-10-22.

134 (a) Each magistrate ~~shall have~~ taking office on or after July 1, 2019, shall:

135 (1) Have been a resident of the county for ~~one year~~ two years next preceding the
136 beginning of his or her term of office ~~and shall as of such date be;~~

137 (2) Be at least 25 years of age ~~and shall possess a high school diploma or its equivalent.~~

138 ~~However, an officer becoming a magistrate pursuant to Code Section 15-10-120 shall be~~
139 ~~eligible to the office of magistrate without the necessity of meeting these qualifications;~~

140 (3) Remain a resident of such county during his or her term of office;

141 (4) Be a citizen of the United States;

142 (5) Be a registered voter; and

143 (6) Have obtained a state accredited high school diploma or general educational
144 development (GED) diploma.

145 (b) Additional qualifications for the office of chief magistrate or magistrate or both may
146 be imposed by local law.

147 (b)(c) A magistrate who is an attorney may practice in other courts but may not practice
148 in the magistrate's own court or appear in any matter as to which that magistrate has
149 exercised any jurisdiction."

150 SECTION 4.

151 Said chapter is further amended by revising Code Section 15-10-120, relating to certain
152 officials to become magistrates and term of office, as follows:

153 "15-10-120.

154 (a) ~~Except as otherwise provided in subsection (b) of this Code section, on July 1, 1983,~~
155 ~~each of the following officers shall become a magistrate of the county in which he formerly~~
156 ~~exercised jurisdiction:~~

157 (1) ~~Each justice of the peace in office on June 30, 1983;~~

158 (2) ~~Each notary public ex officio justice of the peace in office on June 30, 1983;~~

159 (3) ~~Each judge of a small claims court in office on June 30, 1983;~~

160 (4) ~~Each magistrate or judge of a magistrate court in office on June 30, 1983; and~~

161 (5) ~~Each judge of the County Court of Echols County.~~

162 (b) ~~Any officer who was required to be certified under former Article 5 of this chapter,~~
163 ~~'The Georgia Justice Courts Training Council Act,' and who was not so certified as of June~~
164 ~~30, 1983, or any officer holding over beyond the expiration of the term for which he was~~
165 ~~selected shall not so become a magistrate on July 1, 1983.~~

166 (c) ~~Each magistrate taking office on July 1, 1983, shall continue in office for a term which~~
167 ~~shall expire on the date of expiration of the term which he was serving in such other~~
168 ~~capacity. Such magistrates may thereafter be reappointed or reelected as provided in~~

169 ~~Article 2 of this chapter. However, at the expiration of the term of any magistrate other~~
170 ~~than the chief magistrate, no magistrate shall be selected to replace him unless the number~~
171 ~~of magistrates remaining in office is less than the number fixed by local law or by the~~
172 ~~judges of superior court under Code Section 15-10-20 Reserved."~~

173

SECTION 5.

174 All laws and parts of laws in conflict with this Act are repealed.