

HOUSE BILL 346

D1, D4, E3

(5lr0598)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Morales, Pena–Melnyk, Angel, Atterbeary, D. Barnes, Campos, Carter, Chang, Dumais, Frick, Jackson, Kipke, Kittleman, Moon, Patterson, Platt, Smith, Sydnor, Vallario, Waldstreicher, Walker, A. Washington, and K. Young**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Court Personnel – Altering References From Master to Magistrate**

3 FOR the purpose of altering references to the term “master” to “magistrate” in provisions
4 of law prohibiting certain individuals from practicing law or preparing or helping to
5 prepare certain documents while employed in a certain capacity, in provisions
6 concerning the appointment and employment of circuit court personnel, in provisions
7 concerning the appointment, powers, and duties of juvenile court masters, in
8 provisions concerning mediation of certain matters, in provisions requiring oral
9 testimony in an action for alimony, annulment, or divorce, *in provisions concerning*
10 *judicial review of a certain zoning decision of a certain board of appeals or a zoning*
11 *action of a certain legislative body, in provisions concerning the acknowledgment of*

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 *certain instruments in the State*, and in provisions relating to the Judges' Retirement
2 System; and generally relating to circuit court and juvenile court masters.

3 BY repealing and reenacting, with amendments,
4 Article – Business Occupations and Professions
5 Section 10–603(a)
6 Annotated Code of Maryland
7 (2010 Replacement Volume and 2014 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 2–102(a), 2–501(a) and (e), 3–807, 3–8A–04, and 3–1802(b)
11 Annotated Code of Maryland
12 (2013 Replacement Volume and 2014 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Family Law
15 Section 1–203(c)
16 Annotated Code of Maryland
17 (2012 Replacement Volume and 2014 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Land Use
20 Section 4–402(b)
21 Annotated Code of Maryland
22 (2012 Volume and 2014 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – State Government
25 Section 19–102
26 Annotated Code of Maryland
27 (2014 Replacement Volume)

28 BY repealing and reenacting, with amendments,
29 Article – State Personnel and Pensions
30 Section 21–307(b), 21–309(b), 23–201(a)(7), 27–201(a), 27–304(c), and 27–402(b)(1)
31 Annotated Code of Maryland
32 (2009 Replacement Volume and 2014 Supplement)

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
34 That the Laws of Maryland read as follows:

35 **Article – Business Occupations and Professions**

36 10–603.

37 (a) This section does not apply to:

1 (1) a lawyer while employed as a part-time [master] MAGISTRATE for
2 juvenile cases; or

3 (2) an individual while:

4 (i) performing an affirmative duty required by law; or

5 (ii) engaging in an activity related to a case in which the individual
6 is a party or has a property interest.

7 Article – Courts and Judicial Proceedings

8 2–102.

9 (a) If advisable in a specific proceeding, a court may appoint an auditor, surveyor,
10 court reporter, assistant counsel for the State, counsel for a party if authorized by law or
11 rule, accountant, [master] MAGISTRATE, examiner, or other officer, and may require his
12 presence in court.

13 2–501.

14 (a) Except as provided for the Circuit Court for Baltimore City in Subtitle 5A of
15 this title, the judges of the circuit court for a county may employ the court administrators,
16 assignment commissioners, auditors, [masters] MAGISTRATES, examiners, court
17 reporters, messengers, bailiffs, court criers, librarians, clerks, secretaries, stenographers,
18 jury commissioners, law clerks, and other employees necessary to conduct the business of
19 the court.

20 (e) (1) There shall be included in the State budget for the Judicial Branch an
21 appropriation to the Administrative Office of the Courts in the amount necessary to pay
22 salaries and benefits of standing circuit court [masters] MAGISTRATES.

23 (2) The Administrative Office of the Courts shall:

24 (i) Identify the standing circuit court [masters] MAGISTRATES; and

25 (ii) Develop a personnel management plan and funding plan to
26 implement this subsection.

27 (3) A standing [master] MAGISTRATE of a circuit court or a judicial circuit
28 shall report to and perform the duties and assignments determined by the judges of the
29 respective circuit court or circuit, in accordance with the statewide policy on [masters]
30 MAGISTRATES.

1 (4) The Court of Appeals may adopt rules concerning the [master]
2 MAGISTRATE positions described in this subsection.

3 (5) (i) Except as otherwise provided in this paragraph, circuit court
4 [masters] MAGISTRATES identified under paragraph (2) of this subsection shall remain
5 county or Baltimore City employees and shall not be State employees.

6 (ii) A circuit court [master] MAGISTRATE identified under
7 paragraph (2) of this subsection may elect to become a State employee between January 1,
8 2002, and March 31, 2002, both inclusive.

9 (iii) A circuit court [master] MAGISTRATE who elects under this
10 subsection to become a State employee shall become a State employee on July 1, 2002.

11 (iv) A standing circuit court [master] MAGISTRATE hired on or after
12 July 1, 2002, shall be a State employee.

13 3-807.

14 (a) (1) The judges of a circuit court may not appoint a [master] MAGISTRATE
15 for juvenile causes arising under this subtitle and Subtitle 8A of this title unless the
16 appointment and the appointee are approved by the Chief Judge of the Court of Appeals.

17 (2) The standards expressed in § 3-806(b) of this subtitle, with respect to
18 the assignment of judges, are applicable to the appointment of [masters] MAGISTRATES.

19 (3) A [master] MAGISTRATE, at the time of appointment and at all times
20 while serving as a [master] MAGISTRATE, shall be a member in good standing of the
21 Maryland Bar.

22 (b) (1) A [master] MAGISTRATE appointed for juvenile causes may conduct
23 hearings.

24 (2) Each proceeding shall be recorded, and the [master] MAGISTRATE
25 shall make findings of fact, conclusions of law, and recommendations as to an appropriate
26 order.

27 (3) The proposals and recommendations shall be in writing, and, within 10
28 days after the hearing, the original shall be filed with the court and a copy served on each
29 party to the proceeding.

30 (c) (1) Any party, in accordance with the Maryland Rules, may file written
31 exceptions to any or all of the [master's] MAGISTRATE'S findings, conclusions, and
32 recommendations, but shall specify those items to which the party objects.

1 (2) The party who files exceptions may elect a hearing de novo or a hearing
2 on the record before the court unless the party is the State in proceedings involving juvenile
3 delinquency under Subtitle 8A of this title.

4 (3) If the State is the excepting party in proceedings involving juvenile
5 delinquency, the hearing shall be on the record, supplemented by additional evidence as
6 the judge considers relevant and to which the parties raise no objection.

7 (4) In either case, the hearing shall be limited to those matters to which
8 exceptions have been taken.

9 (d) (1) The proposals and recommendations of a [master] **MAGISTRATE** for
10 juvenile causes do not constitute orders or final action of the court.

11 (2) The proposals and recommendations shall be promptly reviewed by the
12 court, and, in the absence of timely and proper exceptions, they may be adopted by the court
13 and appropriate orders entered based on them.

14 (3) Detention, community detention, or shelter care may be ordered by a
15 [master] **MAGISTRATE** pending court review of the [master's] **MAGISTRATE'S** findings,
16 conclusions, and recommendations.

17 (e) If the court, on its own motion and in the absence of timely and proper
18 exceptions, decides not to adopt the [master's] **MAGISTRATE'S** findings, conclusions, and
19 recommendations, or any of them, the court shall conduct a de novo hearing, unless all
20 parties and the court agree to a hearing on the record.

21 3-8A-04.

22 The provisions of §§ 3-806, 3-807, and 3-829 of this title govern judges, [masters]
23 **MAGISTRATES**, and local juvenile court committees under this subtitle.

24 3-1802.

25 (b) This subtitle does not apply to a mediation:

26 (1) To which Title 17 of the Maryland Rules applies;

27 (2) Relating to the establishment, negotiation, administration, or
28 termination of a collective bargaining relationship;

29 (3) Relating to a dispute that is pending under, or is part of the processes
30 established by, a collective bargaining agreement unless the dispute has been filed with an
31 administrative agency or court;

(4) Relating to an action to enforce an agreement to arbitrate under common law, the Federal Arbitration Act, the Maryland Uniform Arbitration Act under Subtitle 2 of this title, or the Maryland International Commercial Arbitration Act under Subtitle 2B of this title;

(5) Relating to an action to foreclose a lien against an owner-occupied residential property subject to foreclosure mediation conducted by the Office of Administrative Hearings under Maryland Rule 14-209.1;

(6) Arising from a referral of a matter to a [master] MAGISTRATE, examiner, auditor, or parenting coordinator under Maryland Rules 2-541, 2-542, 2-543, or 9-205.2; or

(7) Conducted by a judge who might make a ruling on a case based on the dispute.

Article – Family Law

1-203.

(c) In an action for alimony, annulment, or divorce, a final decree may not be entered except on oral testimony by the plaintiff in a hearing before an examiner or a [master] MAGISTRATE or in open court.

Article – Land Use

4-402.

(b) (1) If, after a hearing, the circuit court determines that testimony is needed for the proper disposition of the matter, the court may take evidence or appoint a special [master] MAGISTRATE to:

(i) take the required evidence; and

(ii) report the evidence to the court with the special [master's] MAGISTRATE'S findings of fact and conclusions of law.

(2) The special [master's] MAGISTRATE'S evidence, findings, and conclusions shall constitute a part of the proceedings on which the court shall make its determination.

Article – State Government

19-102.

The acknowledgment of any instrument may be made in the State before:

1 (2) a member of the State Workers' Compensation Commission; and

2 (3) a [master] MAGISTRATE in chancery or [master] MAGISTRATE in
3 juvenile causes who:

4 (i) was appointed by the circuit court of a county on or before June
5 30, 1989; and

6 (ii) serves full time as a [master] MAGISTRATE.

7 27-304.

8 (c) A member may purchase service credit for prior service as:

9 (1) a full-time [master] MAGISTRATE in chancery or [master]
10 MAGISTRATE in juvenile causes on or before June 30, 1975; or

11 (2) a member of the State Workers' Compensation Commission on or before
12 June 30, 1977.

13 27-402.

14 (b) (1) This subsection applies only to a retiree who is a [master]
15 MAGISTRATE in chancery or juvenile causes at the time of termination of service.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2015.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.