

HOUSE BILL 346

D1, D4, E3

5lr0598

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**

Introduced and read first time: February 5, 2015

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 10, 2015

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, and in provisions relating
10 to the Judges’ Retirement System; and generally relating to circuit court and juvenile
11 court masters.

12 BY repealing and reenacting, with amendments,
13 Article – Business Occupations and Professions
14 Section 10–603(a)
15 Annotated Code of Maryland
16 (2010 Replacement Volume and 2014 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 2–102(a), 2–501(a) and (e), 3–807, 3–8A–04, and 3–1802(b)
20 Annotated Code of Maryland

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.



1 (2013 Replacement Volume and 2014 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – Family Law
4 Section 1–203(c)
5 Annotated Code of Maryland
6 (2012 Replacement Volume and 2014 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article – State Personnel and Pensions
9 Section 21–307(b), 21–309(b), 23–201(a)(7), 27–201(a), 27–304(c), and 27–402(b)(1)
10 Annotated Code of Maryland
11 (2009 Replacement Volume and 2014 Supplement)

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

14 **Article – Business Occupations and Professions**

15 10–603.

16 (a) This section does not apply to:

17 (1) a lawyer while employed as a part–time [master] MAGISTRATE for
18 juvenile cases; or

19 (2) an individual while:

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

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

23 **Article – Courts and Judicial Proceedings**

24 2–102.

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

29 2–501.

30 (a) Except as provided for the Circuit Court for Baltimore City in Subtitle 5A of
31 this title, the judges of the circuit court for a county may employ the court administrators,
32 assignment commissioners, auditors, [masters] MAGISTRATES, examiners, court

1 reporters, messengers, bailiffs, court criers, librarians, clerks, secretaries, stenographers,
2 jury commissioners, law clerks, and other employees necessary to conduct the business of
3 the court.

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

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

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

9 (ii) Develop a personnel management plan and funding plan to
10 implement this subsection.

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

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

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

20 (ii) A circuit court [master] **MAGISTRATE** identified under
21 paragraph (2) of this subsection may elect to become a State employee between January 1,
22 2002, and March 31, 2002, both inclusive.

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

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

27 3-807.

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

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

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

4 (b) (1) A [master] **MAGISTRATE** appointed for juvenile causes may conduct
5 hearings.

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

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

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

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

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

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

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

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

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

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

1 3–8A–04.

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

4 3–1802.

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

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

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

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

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

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

19 (6) Arising from a referral of a matter to a [master] **MAGISTRATE**,
20 examiner, auditor, or parenting coordinator under Maryland Rules 2–541, 2–542, 2–543, or
21 9–205.2; or

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

24 **Article – Family Law**

25 1–203.

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

29 **Article – State Personnel and Pensions**

30 21–307.

1 (b) For the fiscal year beginning July 1, 2010, and each subsequent fiscal year,
2 for a [master] MAGISTRATE in chancery or a [master] MAGISTRATE in juvenile causes
3 who is eligible for benefits under the Judges' Retirement System, the county where the
4 master MAGISTRATE serves shall pay to the Judges' Retirement System the employer
5 contributions required to be paid on behalf of the [master] MAGISTRATE.

6 21-309.

7 (b) Each year, the Board of Trustees shall certify to the chief fiscal officer of each
8 participating governmental unit:

9 (1) the normal contribution rates, accrued liability contribution rates,
10 special accrued liability contribution rate, and withdrawal liability contribution rate for the
11 participating governmental unit; and

12 (2) any amount payable by the participating governmental unit for a
13 [master] MAGISTRATE under § 21-307(b)(2) of this subtitle.

14 23-201.

15 (a) Except as provided in subsection (b) of this section, §§ 23-203 through 23-205
16 of this subtitle apply only to:

17 (7) a full-time [master] MAGISTRATE in chancery or in juvenile causes
18 who is appointed on or after July 1, 1989, in any county by the circuit court for that county;

19 27-201.

20 (a) The following individuals are members of the Judges' Retirement System:

21 (1) a judge of the Court of Appeals, Court of Special Appeals, circuit court
22 of a county, or District Court of Maryland;

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

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

26 (i) was appointed by the circuit court of a county on or before June
27 30, 1989; and

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

29 27-304.

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

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

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

5 27-402.

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.