

*N.D. Sup. Ct. Admin. R. 20  
amended effective March 1, 2005*

**MAGISTRATES—QUALIFICATIONS,  
AUTHORITY, EDUCATION AND  
PROCEDURES**

Administrative  
Rule 20

**Section 1. Authority.**

Section 1. Authority. In accordance with Article VI, Section 3, North Dakota Constitution, and N.D.C.C. § 27-05-31, the Supreme Court adopts the following administrative rule relating to magistrates appointed by a presiding judge.

**Section 2. Statement of Policy.**

The North Dakota Judicial System's policy is to provide for the qualifications, the extent and assignment of authority, and the conduct of the office of magistrate within the North Dakota Judicial System in each judicial district.

**Section 3. Qualifications of Magistrates.**

Minimum qualifications for magistrates shall include:

(a) United States' citizenship.

(b) Physical residence in the county of appointment after appointment unless physical residence is waived by the appointing and confirming authorities.

**Section 4. Appointment.**

The presiding judge of the judicial district may appoint a magistrate to serve at the pleasure of the presiding judge. Magistrates may be paid a salary as determined by the Supreme Court.

**Section 5. Scope of Delegable Duties.**

(a) The presiding judge of the judicial district may delegate the following duties and authority to a magistrate who has met the qualifications in Section 3:

1. To issue search warrants under N.D.C.C. § 29-29-01, and N.D.R.Crim.P. 41.

2. To issue administrative search warrants under N.D.C.C. § 29-29.1-01.

3. To approve complaints and to issue summons or warrants under N.D.C.C. Chapter 29-05, and N.D.R.Crim.P. 3 and N.D.R.Crim.P. 4.

4. To hold initial appearance under N.D.R.Crim.P. 5, and to set bail pursuant to under Chapter 29-08, N.D.C.C., and N.D.R.Crim.P. 46.

5. To perform registrar and clerk duties under the Uniform Probate Code, Title 30.1, N.D.C.C., particularly N.D.C.C. §§ 30.1-14-02 and 30.1-14-07, in informal probate proceedings and N.D.C.C. § 30.1-15-05, in uncontested formal probate proceedings.

6. To conduct preliminary mental health commitment proceedings under N.D.C.C. § 25-03.1-09, notwithstanding and consistent with Section 25-03.1-02(3) and (8).

7. To issue domestic violence protection orders under N.D.C.C. ch. 14-07.1.

8. To issue disorderly conduct restraining orders under N.D.C.C. ch. 12.1-31.2.

(b) The duties delegated to each magistrate under this section must be reduced to writing and signed by the presiding judge of the judicial district.

(c) The duties of a magistrate may be diminished by the presiding judge of the judicial district upon notice in writing to the magistrate.

#### **Section 6. Geographical Jurisdiction.**

Each magistrate has the geographical jurisdiction within the judicial district as assigned by the presiding judge of the judicial district, and is expected to maintain an office in conjunction with a district judge.

#### **Section 7. Alternate Magistrate.**

The presiding judge of the judicial district may appoint an alternate magistrate in a county in which the presiding judge or another district judge does not reside. The alternate magistrate shall meet the qualifications of Section 3 and may be delegated duties under Section 5. The alternate magistrate shall serve as magistrate whenever the magistrate for the county is unavailable to fulfill the duties of magistrate.

#### **Section 8. Vacancy.**

The presiding judge of the judicial district may fill any vacancy in the office of magistrate or alternate magistrate under Section 4 and Section 7.

#### **Section 9. Proceedings on the Record.**

Proceedings must be heard on the record as in district court.

#### **Section 10. Removal From Office.**

A magistrate may be removed from the office of magistrate by the presiding judge of the judicial district upon notice in writing to the magistrate.

#### **Section 11. Standard of Conduct.**

The Code of Judicial Conduct is the standard of conduct which shall be observed by each magistrate. The Judicial Conduct Commission has jurisdiction over the conduct of magistrates to the same extent as it has over other judges.

**Section 12. Continuing Education.**

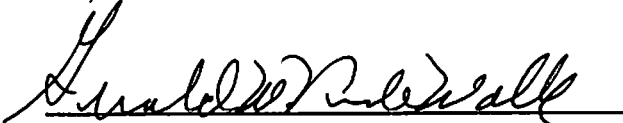
(a) Each magistrate appointed under N.D.C.C. § 27-05-31, must attend a continuing education program every odd calendar year as provided by the Continuing Judicial Education Commission. The magistrate must be reimbursed for necessary expenses, travel, and subsistence by the judicial system.

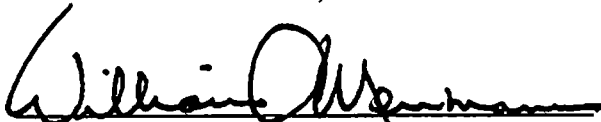
(b) If any magistrate fails to attend an educational session without being excused by the State Court Administrator, the State Court Administrator shall report such fact to the presiding judge of the judicial district and to the Judicial Conduct Commission, for such action as it deems appropriate.

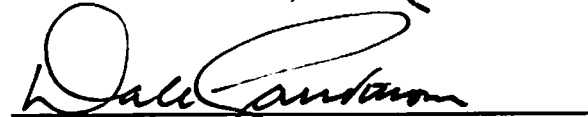
**Section 13. Effective Date.**

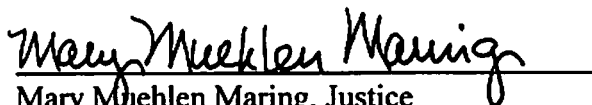
This Rule, as amended, is effective March 1, 2005.


Dated at Bismarck, North Dakota, November 17, 2004.

  
Gerald W. VandeWalle, Chief Justice

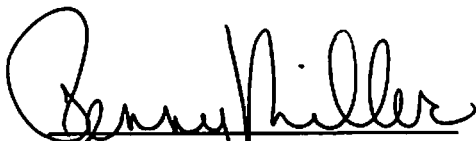
  
William A. Neumann, Justice

  
Dale V. Sandstrom, Justice

  
Mary Muehlen Maring, Justice

  
Carol Ronning Kapsner, Justice

ATTEST:

  
Penny Miller, Clerk

SOURCE: N.D. Const., Art. VI, Sec. 3; N.D.C.C. § 27-07.1-07. AR 20 adopted December 22, 1982, effective January 1, 1983; amended effective June 24, 1985; emergency amendments adopted effective December 20, 1989, readopted February 22, 1990; amended June 24, 1992, which amendments became effective on August 1, 1993; N.D.C.C. § 27-05-31; amended November 16, 1994, with amendments effective January 1, 1995; amended April 1, 1998; amended March 1, 2005.