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November 1, 2023

The Honorable John S. Edwards, Co-Chair
Judiciary Committee
Senate of Virginia
P.O. Box 1179
Roanoke, VA 24006-1179

The Honorable R. Creigh Deeds, Co-Chair
Judiciary Committee
Senate of Virginia
P.O. Box 5462
Charlottesville, VA 22905-5462

The Honorable L. Louise Lucas
Senate of Virginia
P.O. Box 700
Portsmouth, VA 23705-0700

The Honorable Mark J. Peake
Senate of Virginia
4925 Boonsboro Road, Box 172
Lynchburg, VA 24503

Dear Chairs Edwards and Deeds, Senator Lucas, and Senator Peake:

By letter dated March 24, 2023, from Susan Clark Schaar, Clerk of the Senate, the Committee on the Judiciary requested that this Office study the subject matters contained in Senate Bill 971 and Senate Bill 1256 (2023 Session).

Senate Bill 971 sought to require each magistrate appointed by this Office to ride along with an on-duty law-enforcement officer in the magisterial region that such magistrate represents for a minimum of six hours annually. Senate Bill 1256 would have given supervisory control

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over the magistrate system to the chief circuit court judges and would have abolished magisterial regions.

The Office of the Attorney General had requested that SB 971 be introduced. At the suggestion of Senator Peake, staff in the Office of the Executive Secretary met with representatives of the Office of the Attorney General (OAG) to discuss the concerns that led to the introduction of this legislation. The OAG identified the impact of the emergency custody order and temporary detention order processes on law enforcement officers as the underlying issue that the legislation was introduced to address. The OAG recommended that the Office of the Executive Secretary develop and implement a training program for magistrates to increase their understanding of the role of law enforcement officers and other community stakeholders in enforcing magistrate-issued temporary detention orders and emergency custody orders.

During the 2023 General Assembly Session, staff in the Office of the Executive Secretary met with Senator Lucas, patron of Senate Bill 1256, to discuss her concerns regarding the administration of the magistrate system. Senator Lucas expressed concerns regarding bias in magistrate decision making and indicated that requiring anti-bias training for magistrates would address her concerns.

Pursuant to Va. Code § 19.2-38.1, the Committee on District Courts is charged with establishing minimum training and certification standards for magistrates. At its October 19, 2023 meeting, the Committee on District Courts approved updated Magistrate Training Standards (enclosed). The updated training includes, among the ongoing training requirements, a program developed by the Department of Magistrate Services in the Office of the Executive Secretary to familiarize magistrates with the duties of law enforcement officers in enforcing magistrate-issued temporary detention orders and emergency custody orders and a training program focused on implicit biases and practical strategies to make impartial and deliberate decisions. These new training programs will be required for all magistrates to complete prior to the end of the calendar year.

If you have any questions regarding the administration of the Magistrate System, please do not hesitate to contact me.

With best wishes, I am

Very truly yours,



Karl R. Hade

KRH:jrs

cc: Susan Clarke Schaar, Clerk of the Senate

MAGISTRATE TRAINING

New Magistrate Training Program Summary

Pursuant to Virginia Code § 19.2-38, new magistrates must complete a training program and successfully complete a certification examination within nine months of their employment.

- **Certification School**

The Department of Magistrate Services in the Office of the Executive Secretary (“DMS”) conducts four five-week training programs per year for new magistrates, known as “certification schools”. Currently, three of the five weeks consist of in-person instruction and two consist of virtual instruction.¹

New magistrates are trained on the following topics during certification school, which correspond with the chapter topics in the Magistrate Manual: Adult Arrest Procedures; Juvenile and Domestic Relations Procedures; Bail Procedures; Search Warrants; Emergency Custody Orders/Temporary Detention Orders; Accounting and Prepayment; and Civil Procedures. New magistrates also receive training on the elements of serious and frequently encountered criminal offenses.

New magistrates also participate in practical training focused on conducting hearings and participate in workshops that help them hone their skills in interacting with the public, conducting hearings and using the e-Magistrate system.

- **Written Examination**

Upon completion of certification school, each new magistrate must successfully complete a written examination developed by DMS. Grading is conducted anonymously and impartially. Only new magistrates who successfully complete the written examination may proceed to the next phase of required training.

- **On-The-Job Training**

After completing the certification school and passing the written examination, each new magistrate is required to partner with experienced magistrates for at least 240 hours of on-the-job training. During this time, a new magistrate initially observes hearings conducted by experienced magistrates then transitions to conducting hearings and completing necessary paperwork while under the supervision of an experienced magistrate.

At the conclusion of the on-the-job training period, the new magistrate is observed in the performance of their duties by the Chief Magistrate and Magistrate Regional Supervisor. If both supervisors agree that the new magistrate is ready to serve independently, a

¹ The amount of in-person instruction versus virtual instruction for certification schools may be adjusted for safety reasons, if it is determined that in-person instruction poses a risk for the magistrates and instructors.

recommendation for release from training is submitted to the Director of Magistrate Services for approval.

Ongoing Training Requirements

All Magistrates must earn at least 20 hours of continuing education credits each year. All magistrates attend annual regional training programs developed by DMS addressing changes to the laws affecting magistrate proceedings prior to the effective date of July 1. DMS also provides additional training for magistrates each year that is tailored to address frequently occurring issues or new developments in the law. For example, for 2023, all magistrates will be required to complete a program to familiarize magistrates with the duties of law enforcement officers in enforcing magistrate-issued temporary detention orders and emergency custody orders and a training program focused on implicit biases and practical strategies to make impartial and deliberate decisions.