



Office of General Counsel

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MEMORANDUM

TO: Chief District Court Judges
District Court Judges
Clerks of Superior Court
Chief Magistrates
Magistrates

FROM: Pamela Weaver Best

DATE: June 12, 2015

SUBJECT: Implementation Guidance for SB 2 (Magistrates Recusal for Civil Ceremonies)
EFFECTIVE IMMEDIATELY

“AN ACT TO ALLOW MAGISTRATES, ASSISTANT REGISTERS OF DEEDS, AND DEPUTY REGISTERS OF DEEDS TO RECUSE THEMSELVES FROM PERFORMING DUTIES RELATED TO MARRIAGE CEREMONIES DUE TO SINCERELY HELD RELIGIOUS OBJECTION,” Senate Bill 2 ([S.L. 2015-75](#)) became law on June 11, 2015. The bill permits magistrates, based upon a sincerely held religious objection, to recuse themselves from performing all lawful marriages.

Magistrate Recusal

If a magistrate chooses to recuse himself or herself from performing marriages, the magistrate must give notice to the Chief District Court Judge. The recusal will be in effect for a minimum of six months from the time of delivery of the notice and will continue until rescinded in writing by the magistrate, during which time the magistrate may not perform any marriages. G.S. 51-5.5(a). To assist chief district court judges and magistrates with the notice of recusal and any later rescission of the recusal notice, the AOC has created a form entitled Magistrate Recusal from the Solemnization of Marriages, AOC-A-246, which is available using the forms search function on www.nccourts.org. The original form, once completed, is to be filed with AOC Human Resources as part of the magistrate’s personnel file. As part of the personnel file, the completed form is not a public record. The form also should not be filed with the clerk’s office.

Magistrates who recuse themselves from performing marriages due to a sincerely held religious objection may not be charged or convicted of willfully failing to discharge duties under G.S. 14-230 or subjected to disciplinary action. G.S. 51-5.5(d).

Chief District Court Judges' Responsibilities as to Marriages

Chief district court judges must:

- receive magistrate recusal notices and any subsequent rescission and forward that information when received to AOC Human Resources for placement in the magistrate's official personnel file (as noted above, form AOC-A-246 is designed to assist with this process);
- maintain any locally retained copy of the recusal notice as a confidential record;
- ensure that all individuals issued a marriage license seeking to get married before a magistrate can be married. G.S.51-5.5; and
- "ensure that marriages before a magistrate are available to be performed at least a total of 10 hours per week, over at least three business days per week." G.S. 7A-292(b).

Chief district court judges have the authority in accordance with G.S. 7A-146(9), to assign magistrates from other counties within the district to perform marriages. If all magistrates in a district have recused themselves from performing marriages, the chief district court judge shall notify the AOC Director, using Request for Temporary Magistrate Assignment for the Solemnization of Marriages, AOC-A-247, so that alternate coverage may be arranged to ensure that a magistrate is available in the district to perform marriages as required by law. During the period between recusal of all magistrates in the district and the designation by the AOC Director of a magistrate to perform marriages in the jurisdiction, the chief district court judge or such other district court judge as may be designated by the chief district court judge shall be deemed a magistrate for the purposes of performing marriages under this Chapter. G.S. 51-5.5(c).

To read the full text of SB 2 go to <http://ncleg.net/Sessions/2015/Bills/Senate/PDF/S2v3.pdf>.

If you have any questions, please contact me at Pamela.w.best@nccourts.org or 919.890.1304. We also will be updating frequently asked questions for this bill on JUNO.