

## **Department of Planning and Budget**

### **2023 Fiscal Impact Statement**

**1. Bill Number:** SB1256

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed

**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Lucas

**3. Committee:** Senate Committee on the Judiciary

**4. Title:** Appointment and supervision of magistrates

**5. Summary:** The proposed bill amends § 19.2-35(number of magistrates) to state that magistrates and any other personnel in the office of the magistrate will be appointed by the chief judge of the circuit court having jurisdiction within the district, in consultation with both the chief general district court judge and the chief juvenile and domestic relations district court judge of that district. Currently, that responsibility is held by the Executive Secretary of the Supreme Court in consultation with chief judges of the circuit courts having jurisdiction in the region.

Under the provisions of the bill, the chief circuit court judge, in consultation with both the chief general district court judge and the chief juvenile and domestic relations district court judge of that district, may also appoint as many substitute magistrates as may be authorized by the Committee on District Courts. If a magistrate of any district is absent or unable through sickness or other disability to perform his duties, the chief magistrate of that district may call upon any off-duty magistrate of an adjoining district to serve in a replacement capacity.

The bill adds § 19.2-35.1 which states that when delegated the authority by the chief circuit court judge, the chief general district court judge shall exercise general supervisory power over the administration of magistrates within the district. When such authority is delegated, it shall be the duty of the chief general district court judge to supervise the magistrates within the district and to promulgate such reasonable rules and regulations as may be deemed necessary to supplement or clarify the provisions of this legislation with respect to magistrates, to include fixing the time and place of the sitting of such magistrates.

The bill amends § 19.2-36 (chief magistrate) to allow the chief circuit court judge, in consultation with both the chief general district court judge and the chief juvenile and domestic relations district court judge of that district, to appoint a chief magistrate for the purpose of maintaining proper schedules.

The bill amends § 19.2-38 (probationary period) to establish that persons appointed as magistrates serve a term of four years, commencing upon appointment and qualification. Appointments are revocable at the pleasure of the chief circuit court judge.

The bill amends § 19.2-43, establishing that the Executive Secretary of the Supreme Court has the duty to assist the chief general district court judges and general district courts in the supervision and mandatory training of magistrates, for which purpose he shall be authorized to conduct training sessions and meetings for magistrates and provide information and materials for their use.

The bill amends § 19.2-44 to establish a magistrate is authorized to exercise the powers conferred on magistrates in the judicial district for which he is appointed.

The bill provides that any per diem compensation or salary paid to magistrates will be determined by the Committee on District Courts. (§ 19.2-46 and § 19.2-46.1)

- 6. Budget Amendment Necessary:** Yes, Item 48
- 7. Fiscal Impact Estimates:** Preliminary (see Item 8 below)
- 8. Fiscal Implications:** The proposed bill abolishes magisterial regions and gives appointment and supervisory control over the magistrate system to the chief circuit court judge and the Committee on District Courts. Under current law, the Executive Secretary of the Virginia Supreme Court exercises such authority with a provision for consultation with the chief judges of the circuit courts in the region where the appointment is made.

Under current law, magistrates operate within established regions, where a magistrate's jurisdiction is not limited to a single judicial district. This allows magistrates to provide services in matters arising in nearby judicial districts within the same region and to assist judicial districts where either no magistrate is available or a heavy volume of requests for service creates a backup. Under the provisions of the proposed bill, each district would have to have a sufficient number of magistrates to provide prompt service. OES estimates that each office would need a minimum of seven full-time magistrate positions to account for magistrate vacancies, training, vacation time, sicknesses, family emergencies and the inability to obtain outside assistance. Additionally, some districts may need additional magistrates, as a significant portion of the processes returnable to their district are processed elsewhere. According to the Office of the Executive Secretary of the Supreme Court (OES), a total of fifteen new magistrate positions will need to be appointed to address the staffing needs of this bill. The annual total cost (compensation plus benefits) for these fifteen magistrate positions is \$1,416,760. Initial training costs for these additional positions is \$519,313.

Additionally, OES reports that there is currently a regional chief magistrate who supervises the operations for an entire magisterial region. If the provisions of this bill were to be implemented, three new chief magistrate positions would need to be authorized. The annual total cost for these positions is \$385,220. Additionally, if the new chief magistrates selected

are not currently magistrates, the cost of their initial training as a magistrate and chief magistrate is \$144,969.

The bill assumes that substitute magistrates will be available to supplement staffing levels when necessary. OES retention data shows that at any given moment, there is an average of 31 vacant positions in the magistrate system. Currently, regionalization reduces the burden associated with these vacancies. Under the proposed bill, substitute magistrates may be used, in part, to address such issues. The 2017 Virginia Workload Assessment Report shows that judges work an average of 216 days a year. Assuming magistrates will work a similar number of days, the 31 vacant positions will cost the Commonwealth a total of 6,696 work days per year (216 days x 31 vacant positions). If substitute magistrates cover each of these work days at a total of \$218.07 per day, the total cost for substitute magistrates to cover these vacancies is \$1,460,227. The cost of initially training 31 substitute magistrates is \$690,678.

**9. Specific Agency or Political Subdivisions Affected:** Magistrate System

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None