



# House of Representatives

General Assembly

**File No. 784**

January Session, 2009

Substitute House Bill No. 6700

*House of Representatives, April 21, 2009*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE APPOINTMENT OF FAMILY SUPPORT MAGISTRATES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (f) and (g) of section 46b-231 of the general  
2 statutes are repealed and the following is substituted in lieu thereof  
3 (*Effective January 1, 2010*):

4 (f) (1) (A) The Family Support Magistrate Division shall include nine  
5 family support magistrates who shall, (i) prior to January 1, 2010, be  
6 appointed by the Governor to serve in that capacity for a term of three  
7 years, and (ii) on and after January 1, 2010, be nominated by the  
8 Governor and appointed by the General Assembly to serve in that  
9 capacity for a term of four years, except that each family support  
10 magistrate serving on December 31, 2009, shall continue to serve in  
11 that capacity on and after January 1, 2010, until the expiration of such  
12 magistrate's three-year term, unless removed from office pursuant to  
13 this subsection, and shall continue to serve after the expiration of such  
14 three-year term until a successor is appointed or the family support

15 magistrate's nomination has failed to be approved in accordance with  
16 this subsection. A family support magistrate may be [reappointed  
17 upon completion of his term of office] nominated by the Governor for  
18 reappointment.

19 (B) To be eligible for [appointment,] nomination as a family support  
20 magistrate, a person must have engaged in the practice of law for five  
21 years prior to [his appointment] the person's appointment and [shall]  
22 be experienced in the field of family law. [He] A family support  
23 magistrate shall devote full time to his or her duties as a family  
24 support magistrate and shall not engage in the private practice of law.

25 (2) Each nomination made by the Governor to the General  
26 Assembly for a family support magistrate shall be referred, without  
27 debate, to the committee on the judiciary, which shall report thereon  
28 within thirty legislative days from the time of reference, but no later  
29 than seven legislative days before the adjourning of the General  
30 Assembly.

31 (3) Each appointment of a family support magistrate shall be by  
32 concurrent resolution. The action on the passage of each such  
33 resolution in the House of Representatives and in the Senate shall be  
34 by vote taken on the electrical roll-call device. No resolution shall  
35 contain the name of more than one nominee. The Governor shall,  
36 within five days after the Governor has notice that any family support  
37 magistrate nomination has failed to be approved by the affirmative  
38 concurrent action of both houses of the General Assembly, make  
39 another nomination to such office.

40 (4) Notwithstanding the provisions of section 4-19, no vacancy in  
41 the position of a family support magistrate shall be filled by the  
42 Governor when the General Assembly is not in session unless, prior to  
43 such filling, the Governor submits the name of the proposed vacancy  
44 appointee to the committee on the judiciary. Within forty-five days, the  
45 committee on the judiciary may, upon the call of either chairperson,  
46 hold a special meeting for the purpose of approving or disapproving  
47 such proposed vacancy appointee by majority vote. The Governor

48 shall not administer the oath of office to such proposed vacancy  
49 appointee until the committee has approved such proposed vacancy  
50 appointee. If the committee determines that it cannot complete its  
51 investigation and act on such proposed vacancy appointee within such  
52 forty-five-day period, it may extend such period by an additional  
53 fifteen days. The committee shall notify the Governor in writing of any  
54 such extension. Failure of the committee to act on such proposed  
55 vacancy appointee within such forty-five-day period or any fifteen-day  
56 extension period shall be deemed to be an approval.

57 (5) Prior to a public hearing on a family support magistrate, the  
58 committee on the judiciary may employ a person to investigate, at the  
59 request of the chairpersons of said committee, any family support  
60 magistrate nominee with respect to the suitability of such nominee for  
61 magisterial office. Such investigator shall report his or her findings to  
62 said committee and any such report shall be confidential and shall not  
63 be subject to public disclosure. Such person shall receive such  
64 compensation as may be fixed by the Joint Committee on Legislative  
65 Management for each day such person is engaged in his or her duties  
66 as an investigator.

67 (6) A family support magistrate may be removed from office by the  
68 Governor for cause and is subject to admonishment, censure,  
69 suspension and removal from office as provided in chapter 872a.

70 (g) A Chief Family Support Magistrate shall be designated by the  
71 Chief Court Administrator of the Superior Court from among the nine  
72 family support magistrates appointed [by the Governor] pursuant to  
73 subsection (f) of this section, except that the Chief Family Support  
74 Magistrate serving in that capacity on December 31, 2009, shall  
75 continue to serve in that capacity on and after January 1, 2010, until the  
76 expiration of such family support magistrate's term, unless a successor  
77 is designated by the Chief Court Administrator or such family support  
78 magistrate is removed from office pursuant to subsection (f) of this  
79 section or such family support magistrate's nomination has failed to be  
80 approved in accordance with subsection (f) of this section. Under the

81 direction of the Chief Court Administrator, the Chief Family Support  
82 Magistrate shall supervise the Family Support Magistrate Division and  
83 submit an annual report to the Chief Court Administrator and perform  
84 such other duties as provided in this section.

85 Sec. 2. Subsection (b) of section 51-51q of the general statutes is  
86 repealed and the following is substituted in lieu thereof (*Effective*  
87 *January 1, 2010*):

88 (b) The Judicial Review Council shall submit its recommendations  
89 concerning the nomination for reappointment of any family support  
90 magistrate whose term of office is about to expire, including a report of  
91 any investigation of any such family support magistrate by the council,  
92 to the Governor and to the joint standing committee of the General  
93 Assembly having cognizance of matters relating to the judiciary. The  
94 Judicial Review Council shall provide information to said committee  
95 concerning any complaint filed against such family support magistrate  
96 and the investigation and disposition of such complaint, including, but  
97 not limited to, confidential information, in the same manner and  
98 subject to the same requirements as information provided under  
99 subdivisions (1) and (2) of subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2010</i>	46b-231(f) and (g)
Sec. 2	<i>January 1, 2010</i>	51-51q(b)

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Legislative Mgmt.	GF - Cost	Potential Minimal	Potential Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill requires that family support magistrates be nominated by the Governor and appointed by the General Assembly. The bill also authorizes the Judiciary Committee to employ a person to investigate, at the request of the chairpersons, any family support magistrate nominee.

To convene a committee meeting during legislative session will result in no fiscal impact. If not in session, holding a committee meeting will result in minor costs to Legislative Management for legislator mileage reimbursements (currently 55 cents per mile). It is estimated that it would cost \$100 per hour to contract with an investigator under the bill.<sup>1</sup> (For illustrative purposes, it would cost approximately \$500 to conduct an investigation lasting one week.) There are presently nine family support magistrates each serving a three year term.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 6700*****AN ACT CONCERNING THE APPOINTMENT OF FAMILY SUPPORT MAGISTRATES.*****SUMMARY:**

This bill requires family support magistrate (FSM) appointments to be approved by the legislature. Currently, the governor appoints FSMs for three-year terms. Beginning January 1, 2010, the bill instead requires, that the governor nominate FSMs for four-year terms subject to the legislature's approval. FSMs whose terms have not expired as of December 31, 2009 must continue to serve until (1) their terms expire or (2) their successor is appointed or their nomination has failed. The governor retains the power to remove an FSM for cause before his or her term expires. The chief FSM serves under the same rules, but the chief court administrator can remove him or her from the position as chief.

The bill also permits the Judicial Review Council to subject FSMs to admonishment, censure, and removal from office. The council already appears to have this authority.

EFFECTIVE DATE: January 1, 2010

**NOMINATIONS AND APPOINTMENTS**

The name of the governor's nominee must be referred to the Judiciary Committee without debate, and the committee must refer it to the legislature with a recommendation to accept or reject within 30 legislative days, or, near the end of the session, within seven legislative days. It is unclear at what point in the session the seven-legislative-day deadline must be used.

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<sup>1</sup> Based on the hourly rate of an Inspector within the Division of Criminal Justice, plus fringes and expenses.

An appointment is approved if both chambers vote in the affirmative by concurrent resolution and a roll call vote. No resolution can contain more than one name. The governor must submit the name of a new nominee within five days after she gets notice that a nomination has failed.

### ***Investigations***

***Private Investigators.*** Before any public hearing on an FSM nominee, the Judiciary Committee co-chairmen can hire someone to investigate the nominee's suitability to hold office. The investigator must report his or her findings to the committee; the report is not subject to public disclosure. The Legislative Management Committee sets the investigator's rate of compensation.

***Judicial Review Council.*** Currently, the Judicial Review Council submits its recommendations for re-nomination of FSMs to the governor, including a report on any investigation it undertook concerning the nominee. Under the bill, it must share its recommendation and investigatory findings with the Judiciary Committee, along with information about any complaint, the council's investigatory findings, and the complaint's disposition.

### ***Interim Appointments***

The governor cannot make vacancy appointments when the legislature is not in session unless she submits the name of the proposed vacancy appointee to the Judiciary Committee. Either chairman can call a special meeting within 45 days to approve or disapprove the vacancy appointment by majority vote.

If the committee determines that it cannot complete its investigation within 45 days and act on the proposed vacancy appointment, it may extend the deadline by 15 days. In that case, it must notify the governor of the extension in writing. The committee's failure to act within the time limits is deemed an approval.

## **BACKGROUND**

### ***Family Support Magistrates***

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The nine family support magistrates primarily hear and decide child support, visitation, alimony, and paternity cases.

***Judicial Review Council***

The Judicial Review Council consists of judges, attorneys, and members of the public who investigate the conduct of judges, workers compensation commissioners, and FSMs. With respect to FSMs, the council has the authority to censure, suspend, or remove them from office for specified types of misconduct.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 29 Nay 10 (04/03/2009)