

By Mr. DiMasi of Boston, petition of Salvatore F. DiMasi for legislation to further define the duties of clerk magistrates in certain courts of the Commonwealth. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT FURTHER DEFINING THE DUTIES OF CLERK MAGISTRATES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 218 is amended by striking section 12 and inserting
2 in place thereof the following section: —

3 (1) The Clerk-Magistrates, assistant clerks, temporary clerks
4 and temporary assistant clerks of the Boston Municipal Court
5 Department, the Juvenile Court Department and the District
6 Court Department (see G.L. Chapter 211B, section 1, G.L.
7 Chapter 221, section 62b, section 62c) shall be sworn, and the case
8 of any such assistant clerk, temporary clerk or temporary assistant
9 clerk the oath of office may be administered by the justice or a
10 special or associate justice of his Court, who shall, upon
11 administering the same, forthwith make return of such act with
12 the date thereof to the state secretary.

13 (2) The aforesaid clerks, assistant clerks and temporary clerks
14 shall have the following powers, duties and responsibilities:

15 (a) They or one of them shall attend all sessions of the Court
16 and shall keep a record of all its proceedings;

17 (b) They shall have the care and custody of all the record books
18 and papers appertaining to, filed or deposited in their respective
19 offices;

20 (c) They shall make and issue writs and processes, shall make
21 returns of the Court, tax bills of costs and receive fines, forfeitures,
22 fees and costs accruing from the civil and criminal business of the
23 Court, including fees, blanks and copies (see G.L. Chapter 218,
24 section 12);

25 (d) They shall appoint assistant clerks and clerical assistants
26 (G.L. Chapter 218, section 69);

27 (e) They may receive complaints, administer oaths to the
28 complaint as required thereto, and issue warrants, search warrants
29 and summonses, returnable as required when such process are
30 issued by said Court (see G.L. Chapter 218, section 33).

31 (3) They or one of them shall have the responsibility for:

32 (a) management of the Court's calendar;

33 (b) budget preparation and administration;

34 (c) personnel management;

35 (d) financial management;

36 (e) records management;

37 (f) training and education of nonjudicial personnel;

38 (g) jury management, if applicable;

39 (h) management of physical facilities;

40 (i) purchase and management of equipment and the purchase
41 of necessary services;

42 (j) information and data collection;

43 (4) A magistrate designated pursuant to G.L. Chapter 221,
44 section 62b, may:

45 (a) grant such continuances as are agreed upon by all parties
46 to any proceeding and as may be allowed by rule of Court;

47 (b) hear and rule on any uncontested, non-evidentiary motion
48 as may be allowed by rule of Court;

49 (c) call such pretrial conferences as are deemed expedient for
50 the purpose of ascertaining trial readiness of parties to an action
51 and of establishing a date for trials;

52 (d) mediate actions under section 22 of Chapter 218;

53 (e) receive citations and hold hearings pursuant to subsection
54 (a) of section 3 of Chapter 90C (receive petitions and review orders
55 pursuant to section 157 of Chapter 140G) hold preliminary
56 hearings to determine whether there is probable cause to believe
57 that a probationer has violated the terms of his probation;

58 (f) set bail on arraignments during the normal Court day, when
59 a Justice is unavailable.

60 (5) The powers of magistrates as provide herein shall be
61 exercised as allowed rule of court promulgated by the

62 administrative justice of the appropriate department and
63 approved by the Supreme Judicial Court.

64 In addition to the foregoing, the clerk magistrates shall have
65 all additional responsibilities and functions required by law.

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