



AN ACT GENERALLY REVISING LAWS RELATED TO STANDING MASTERS; REQUIRING STANDING ORDERS TO BE POSTED ON THE DISTRICT COURT'S OR THE JUDICIAL BRANCH'S WEBSITE; ALLOWING PARTIES TO OBJECT TO A REFERENCE TO A STANDING MASTER; REQUIRING HEARINGS IF REQUESTED; REQUIRING DISTRICT COURT REVIEW OF STANDING MASTER FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING QUALIFICATIONS FOR STANDING MASTERS; PROVIDING FOR DISQUALIFICATION AND REMOVAL OF STANDING MASTERS; CLARIFYING THAT STANDING MASTERS ARE STATE EMPLOYEES; AMENDING SECTIONS 3-5-124, 3-5-125, 3-5-126, AND 3-5-901, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 3-5-124, MCA, is amended to read:

**"3-5-124. Standing masters -- reference -- powers.** (1) A reference to a standing master must be made at the judge's discretion or by standing order of the district court. All standing orders of reference under this section must be posted in a conspicuous place on the district court's or the judicial branch's website.

(2) A party may object to a reference to a standing master within 20 days after the date the matter was referred to the standing master but before the first meeting with the standing master. On objection, the district court shall refer the matter to another standing master in the judicial district or return the matter to the active docket of the district court.

(2)(3) (a) The order of reference to the standing master may ~~must~~ specify or limit the standing master's powers and may ~~must~~ direct the standing master to present written findings of fact and conclusions of law upon conclusions of law on particular issues for the consideration of the district court. Subject to the specifications and limitations stated in the order, the standing master shall regulate all proceedings in ~~every~~ each hearing before the standing master and implement measures necessary for the efficient performance of

the standing master's duties under the order.

(b) The standing master may:

(i) require the production of evidence ~~upon~~on all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings that are applicable;

(ii) rule ~~upon~~on the admissibility of evidence unless otherwise directed by the order of reference.

The standing master's rulings must be in accordance with Montana law and the Montana Rules of Evidence, as applicable.;

(iii) put witnesses on oath and ~~examine them~~ permit their examination;

(iv) call the parties to the action and ~~examine them on~~ permit their examination under oath; and

(v) issue temporary orders that are subject to review by the district court, ~~upon~~on objection by a party to the action.

(c) The standing master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in the Montana Rules of Evidence for a court sitting without a jury. Audio and video recordings are acceptable means of record so long as a master recording is properly preserved and can be transcribed for district court and appellate review.

(4) A standing master shall apply all applicable laws and follow the applicable rules of the judicial district in which the matter is filed."

**Section 2.** Section 3-5-125, MCA, is amended to read:

**"3-5-125. Standing masters -- proceedings -- meetings -- witnesses -- statements of account.**

(1) When a reference is made, the clerk shall immediately furnish the standing master with a copy of the order of reference. Unless the order of reference otherwise provides, the standing master shall set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after ~~the date of the order of reference~~ the expiration of the objection period in 3-5-124(2) and shall notify the parties or their attorneys. The standing master shall have the authority to issue temporary orders before the expiration of the objection period in 3-5-124(2). The standing master shall proceed with all reasonable diligence throughout the proceedings. Either party, on notice to the parties and standing master, may apply to the district court for an order requiring the standing master to speed the proceedings and to make the report of its findings of fact and conclusions of

law. If a party fails to appear at the time and place appointed, the standing master may proceed ex parte or, in the standing master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) The parties may procure the attendance of witnesses before the standing master by the issuance and service of subpoenas as provided in Rule 45 of the Montana Rules of Civil Procedure. If, without adequate excuse, a witness fails to appear or give evidence, the witness may be punished for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45 of the Montana Rules of Civil Procedure.

(3) When matters of accounting are in issue before the standing master, the standing master may prescribe the form in which the accounts must be submitted and may require or receive in evidence a statement by a certified public accountant who is called as a witness. ~~Upon~~ On objection of a party to any of the items submitted or ~~upon~~ on a showing that the form of statement is insufficient, the standing master may require a different form of statement to be furnished or the accounts or specific items to be proved by oral examination of the accounting parties or ~~upon~~ on written interrogatories or in ~~such~~ any other manner as the standing master directs."

**Section 3.** Section 3-5-126, MCA, is amended to read:

**"3-5-126. Standing masters -- findings of fact and ~~conclusions of law~~ recommendations for disposition -- ~~orders~~ conclusions of law -- order -- contents and filing -- review -- stipulations as to findings.** (1) Subject to the order of reference, the standing master shall submit findings of fact and ~~conclusions of law~~ conclusions of law to the clerk of court, following a hearing ~~upon~~ on the matters submitted to the standing master by the order of reference. If a party requests a hearing on a matter submitted to the standing master, the standing master shall hold a hearing. When a hearing is not required, the standing master shall submit ~~an order~~ ~~upon~~ findings of fact, conclusions of law, and a proposed order to the clerk of court on the matters submitted to the standing master by the order of reference. The standing master shall file the findings of fact and ~~conclusions or order~~ conclusions of law or order with the clerk of the court and promptly serve copies on all parties in accordance with applicable law. All contested proceedings before the standing master must be audio or video recorded. The standing master shall, at the expense of the district court, file a recording of the

proceedings and of the evidence and the original exhibits. The record of the proceedings before the standing master must be made available to the public to the same extent other records of the district court are available to the public. The reasonable cost of the preparation of a duplicate of the recording is the responsibility of the objecting party. The objecting party shall serve a copy of the duplicate recording on adverse parties ~~at the objecting party's expense.~~

(2) Within 10 days after being served with notice of the filing of the findings of fact and ~~conclusions or order~~ conclusions of law or order, any party may file and serve written specific objections ~~upon the other parties~~, or ~~may~~ apply to the district court for an extension ~~to serve~~. ~~Application to the court for action upon the findings and conclusions or order and upon the filing of specific objections to the findings and conclusions or order must be by motion and upon notice as prescribed in Rule 6(c) of the Montana Rules of Civil Procedure.~~ The district court, ~~after a hearing, may, after a hearing, if requested, may~~ adopt the findings of fact and ~~conclusions or order~~ and ~~may~~ conclusions of law or order and may modify, reject in whole or in part, receive further evidence, or recommit the ~~findings and conclusions or order~~ matter to the standing master with instructions. If a party seeks to admit further evidence and the request is denied, the party may make an offer of proof with affidavits and additional proposed exhibits.

(3) ~~The effect of a standing master's report is the same whether or not the parties have consented to the reference, but when~~ When the parties stipulate that a standing master's findings of fact are final, only questions of law arising ~~upon~~ on the findings of fact and ~~conclusions~~ conclusions of law may be considered."

**Section 4. Appointment of standing masters -- qualifications -- disqualification.** (1) A judicial district may appoint or reappoint one or more standing masters for its district with the concurrence of a majority of the judges in the district.

(2) A standing master must be:

- (a) admitted to practice law in Montana for at least 3 years prior to the date of appointment;
- (b) a member of good standing in the state bar of Montana; and
- (c) determined by the appointing judicial district to be competent to perform the duties of the office.

(3) The judicial district shall provide public notice of all vacancies or proposed reappointments in standing master positions.

(4) A standing master shall take the oath required of judges and follow the Montana code of judicial conduct.

(5) An appointed standing master is an employee of the district court under 3-5-901.

(6) A standing master is subject to disqualification from proceeding on a matter on the same grounds as any other judicial officer. On disqualification of a standing master, the district court shall either refer the matter to another standing master in the judicial district or move the case back to its active docket for further proceedings.

**Section 5.** Section 3-5-901, MCA, is amended to read:

**"3-5-901. State assumption of district court expenses.** (1) There is a state-funded district court program under the judicial branch. Under this program, the office of court administrator shall fund all district court costs, except as provided in subsection (3). These costs include but are not limited to the following:

(a) salaries and benefits for:

(i) district court judges;

(ii) law clerks;

(iii) court reporters, as provided in 3-5-601;

(iv) juvenile probation officers, youth division offices staff, and assessment officers of the youth

court; and

(v) standing masters; and

~~(v)~~(vi) other employees of the district court;

(b) in criminal cases:

(i) fees for transcripts of proceedings, as provided in 3-5-604;

(ii) witness fees and necessary expenses, as provided in 46-15-116;

(iii) juror fees and necessary expenses;

(iv) for a psychiatric examination under 46-14-202, the cost of the examination and other associated expenses, as provided in 46-14-202(4); and

(v) for commitment under 46-14-221, the cost of transporting the defendant to the custody of the director of the department of public health and human services to be placed in an appropriate facility of the

department of public health and human services and of transporting the defendant back for any proceedings, as provided in 46-14-221(5);

(c) except as provided in 47-1-119, the district court expenses in all postconviction proceedings held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings;

(d) except as provided in 47-1-119, the following expenses incurred by the state in federal habeas corpus cases that challenge the validity of a conviction or of a sentence:

- (i) transcript fees;
- (ii) witness fees; and
- (iii) expenses for psychiatric examinations;

(e) except as provided in 47-1-119, the following expenses incurred by the state in a proceeding held pursuant to Title 41, chapter 3, part 4 or 6, that seeks temporary investigative authority of a youth, temporary legal custody of a youth, or termination of the parent-child legal relationship and permanent custody:

- (i) transcript fees;
- (ii) witness fees;
- (iii) expenses for medical and psychological evaluation of a youth or the youth's parent, guardian, or other person having physical or legal custody of the youth except for expenses for services that a person is eligible to receive under a public program that provides medical or psychological evaluation;

(iv) expenses associated with appointment of a guardian ad litem or child advocate for the youth;

and

(v) expenses associated with court-ordered alternative dispute resolution;

(f) except as provided in 47-1-119, costs of juror and witness fees and witness expenses before a grand jury;

(g) costs of the court-sanctioned educational program concerning the effects of dissolution of marriage on children, as required in 40-4-226, and expenses of education when ordered for the investigation and preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a);

(h) except as provided in 47-1-119, all district court expenses associated with civil jury trials if similar expenses were paid out of the district court fund or the county general fund in any previous year;

(i) all other costs associated with the operation and maintenance of the district court, including contract costs for court reporters who are independent contractors; and

(j) costs associated with the operation and maintenance of the youth court and youth court division operations pursuant to 41-5-111 and subsection (1)(a) of this section, except for those costs paid by other entities identified in Title 41, chapter 5.

(2) If a cost is not paid directly by the office of court administrator, the county shall pay the cost and the office of court administrator shall reimburse the county within 30 days of receipt of a claim.

(3) For the purposes of subsection (1), district court costs paid by the office of court administrator do not include:

(a) costs for clerks of district court and employees and expenses of the offices of the clerks of district court;

(b) costs of providing and maintaining district court office space; or

(c) charges incurred against a county by virtue of any provision of Title 7 or 46."

**Section 6. Codification instruction.** [Section 4] is intended to be codified as an integral part of Title 3, chapter 5, part 1, and the provisions of Title 3, chapter 5, part 1, apply to [section 4].

**Section 7. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 8. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
HB 322, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.



HOUSE BILL NO. 322

INTRODUCED BY C. HINKLE, S. KERNS, J. SCHILLINGER, B. MITCHELL, J. HINKLE, B. LER, A. REGIER,  
F. NAVE, R. MARSHALL, J. READ, T. MANZELLA, B. BROWN, B. PHALEN, N. DURAM

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