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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

A BILL FOR AN ACT ENTITLED: "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 RECOMMENDATIONS FOR DISPOSITION CONCLUSIONS
OF LAW; PROVIDING FOR DE NOVO REVIEW OF OBJECTIONS; PROVIDING QUALIFICATIONS FOR
STANDING MASTERS; PROVIDING FOR AN APPOINTMENT PROCESS FOR STANDING MASTERS;
PROVIDING FOR DISQUALIFICATION AND REMOVAL OF STANDING MASTERS; CLARIFYING THAT
STANDING MASTERS ARE STATE EMPLOYEES; ~~AND~~ 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 recommendations for disposition~~ CONCLUSIONS OF LAW on particular issues for the consideration of the

1 OBJECTION PERIOD IN 3-5-124(2). The standing master shall proceed with all reasonable diligence throughout the
 2 proceedings. Either party, on notice to the parties and standing master, may apply to the district court for an
 3 order requiring the standing master to speed the proceedings and to make the report of its findings of fact and
 4 recommendations for disposition CONCLUSIONS OF LAW. If a party fails to appear at the time and place appointed,
 5 the standing master may proceed ex parte or, in the standing master's discretion, adjourn the proceedings to a
 6 future day, giving notice to the absent party of the adjournment.

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

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

19
 20 **Section 3.** Section 3-5-126, MCA, is amended to read:

21 **"3-5-126. Standing masters -- findings of fact and ~~conclusions of law recommendations for~~**
 22 **~~disposition -- orders~~ CONCLUSIONS OF LAW -- ORDER -- contents and filing -- review -- stipulations as to**
 23 **findings.** (1) Subject to the order of reference, the standing master shall submit findings of fact and ~~conclusions~~
 24 of law ~~recommendations for disposition~~ CONCLUSIONS OF LAW to the district court CLERK OF COURT, following a
 25 hearing ~~upon~~ on the matters submitted to the standing master by the order of reference. If a party requests a
 26 hearing on a matter submitted to the standing master, the standing master shall hold a hearing. When a hearing
 27 is not required, the standing master shall submit ~~an order upon~~ recommendations for disposition FINDINGS OF
 28 FACT, CONCLUSIONS OF LAW, AND A PROPOSED ORDER to the district court CLERK OF COURT on the matters

1 submitted to the standing master by the order of reference. The standing master shall file the findings of fact
 2 ~~and conclusions or order recommendations for disposition~~ CONCLUSIONS OF LAW OR ORDER with the clerk of the
 3 court and promptly serve copies on all parties in accordance with applicable law. All contested proceedings
 4 before the standing master must be audio or video recorded. The standing master shall, at the expense of the
 5 district court, file a recording of the proceedings and of the evidence and the original exhibits. The record of the
 6 proceedings before the standing master must be made available to the public to the same extent other records
 7 of the district court are available to the public. The reasonable cost of the preparation of a duplicate of the
 8 recording is the responsibility of the objecting party. The objecting party shall serve a copy of the duplicate
 9 recording on adverse parties ~~at the objecting party's expense~~.

10 (2) Within 10 days after being served with notice of the filing of the findings of fact and ~~conclusions~~
 11 ~~or order recommendations for disposition~~ CONCLUSIONS OF LAW OR ORDER, any party may file and serve written
 12 specific objections ~~upon the other parties, request a hearing before the district court, or may apply to the district~~
 13 ~~court for an extension to serve. The district court shall make a de novo determination of the specified findings of~~
 14 ~~fact or recommendations for disposition to which an objection is made.~~ Application to the court for action upon
 15 ~~the findings and conclusions or order and upon the filing of specific objections to the findings and conclusions~~
 16 ~~or order must be by motion and upon notice as prescribed in Rule 6(c) of the Montana Rules of Civil Procedure.~~
 17 The district court, after a hearing, may shall either, AFTER A HEARING, if requested, MAY adopt the findings of fact
 18 ~~and conclusions or order recommendations for disposition~~ and may ~~of~~ CONCLUSIONS OF LAW OR ORDER AND MAY
 19 ~~modify, reject in whole or in part, receive further evidence, or recommit the findings and conclusions or order~~
 20 ~~matter to the standing master with instructions. If a party requests a hearing, the district court shall hold a~~
 21 ~~hearing. If a party seeks to admit further evidence and the request is denied, the party may make an offer~~
 22 ~~of proof with affidavits and additional proposed exhibits.~~

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

27
 28 NEW SECTION. Section 4. Appointment of standing masters -- qualifications -- disqualification.

1 and the office of court administrator shall reimburse the county within 30 days of receipt of a claim.

2 (3) For the purposes of subsection (1), district court costs paid by the office of court administrator

3 do not include:

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

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

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

8
9 **NEW SECTION. Section 6. Codification instruction.** [Sections SECTION 4 and 5] are IS intended to
10 be codified as an integral part of Title 3, chapter 5, part 1, and the provisions of Title 3, chapter 5, part 1, apply
11 to [~~sections SECTION 4 and 5~~].

12
13 **NEW SECTION. Section 7. Severability.** If a part of [this act] is invalid, all valid parts that are
14 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
15 the part remains in effect in all valid applications that are severable from the invalid applications.

16
17 **NEW SECTION. Section 8. Effective date.** [This act] is effective on passage and approval.

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