

By Mr. Tobin, a petition (accompanied by bill, Senate, No. 715) of Alfred L. Podolski, Alan D. Sisitsky, Arthur H. Tobin and David H. Locke for legislation to further define the reference of civil actions to masters in the probate courts. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-seven.

AN ACT FURTHER DEFINING THE REFERENCE OF CIVIL ACTIONS TO MASTERS IN THE PROBATE COURT.

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

1 SECTION 1. Chapter 221 of the General Laws is hereby
 2 further amended by striking out section 57 as appearing in
 3 the Tercentenary Edition and inserting in place thereof the
 4 following section: —

5 *Section 57. Probate Court Masters.* When a civil action
 6 is at issue and is not governed by the Massachusetts Rules
 7 of Civil Procedure or by any extensions thereof to domestic
 8 relations actions, the judge of said court may appoint one or
 9 more masters to hear the parties, examine their vouchers and
 10 evidence, state accounts and report upon such matters therein
 11 as may be ordered by the court. The report shall be prima
 12 facie evidence upon such matters as are expressly referred to
 13 such masters.

1 SECTION 2. Chapter 221 of the General Laws is hereby
 2 further amended by striking out sections 58, 61 and 62 as
 3 most recently amended by sections 18 and 19 of Chapter 377
 4 of the Acts of 1975 and by further striking out section 62A
 5 as most recently amended by section 82 of chapter 1114 of
 6 the Acts of 1973 and inserting in place thereof the following
 7 four sections: —

8 *Section 58. Masters; Duty To Give Notice To Parties.* Mas-
 9 ters shall give notice to the parties of the time and place ap-
 10 pointed for their meeting, and may adjourn from time to time
 11 as may be necessary, subject, however, to any general or

12 special order of the court. If there is more than one master,
13 all shall meet and hear the cause, but a report may be made
14 by a majority. If either party neglects to appear at the time
15 appointed for such hearing, or at any adjournment thereof,
16 without just cause, or if at any such hearing either party re-
17 fuses to produce in good faith the testimony relied on by him,
18 the masters may close the hearings and make a report recom-
19 mending that judgment be entered for the adverse party.
20 Judgment shall be entered accordingly after the expiration of
21 ten days from the filing of the report, unless the court, for
22 cause shown, otherwise orders. In all matters pertaining to
23 the time, place and manner of conducting their hearings,
24 masters shall be subject to any general or special order of the
25 court by which they were appointed.

26 *Section 61.* The court shall award reasonable compensation
27 and allow actual expenses of travel in attending hearings, if
28 said expenses be approved by the court as reasonable, to mas-
29 ters appointed by the probate court, but no allowance for the
30 expenses of travel shall be allowed by the court unless the
31 master shall file a true and correct account of such expenses,
32 signed and sworn to by him. Said compensation and expenses
33 shall be paid by the county.

34 *Section 62.* Masters appointed by the probate court shall
35 file their final report in the office of the register of the court
36 by which they are appointed within ninety days after the
37 hearing before them has been closed or within such time as
38 the court may allow, and, in default thereof, shall not be en-
39 titled to any fees, except as provided in section sixty-two A.

40 *Section 62A.* If a master appointed by the probate court be-
41 comes incapacitated or dies without having filed his final re-
42 port, the court may award him or his estate reasonable com-
43 pensation, payable by the county, upon a finding that he ac-
44 tually performed services which would entitle him to the com-
45 pensation awarded had he filed a report as provided in section
46 sixty-two; provided that all his records and memoranda, or
47 copies thereof, in the case in which compensation is sought,
48 are filed with the register of the court.