
By Mr. Conte, a petition (accompanied by bill, Senate, No. 638) of Alfred L. Podolski, chief judge of probate courts, Abraham I. Smith, John J. Conte and others 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-Six.

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

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 the
3 Tercentenary Edition and inserting in place thereof the follow-
4 ing section: —

5 *Section 57. Probate Court Masters*

6 When a civil action is at issue and is not governed by the
7 Massachusetts Rules of Civil Procedure or by any extensions
8 thereof to domestic relations actions, the judge of said court
9 may appoint one or more masters to hear the parties, examine
10 their vouchers and evidence, state accounts and report upon
11 such matters therein as may be ordered by the court. The
12 report shall be prima facie evidence upon such matters as are
13 expressly referred to 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 most
3 recently amended by sections 18 and 19 of Chapter 377 of the
4 Acts of 1975 and by further striking out section 62A as most
5 recently amended by section 82 of chapter 1114 of the Acts of
6 1973 and inserting in place thereof the following four sections:

7 *Section 58. Masters; Duty To Give Notice To Parties*

8 Masters shall give notice to the parties of the time and place
9 appointed for their meeting, and may adjourn from time to
10 time as may be necessary, subject, however, to any general or

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

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

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

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