

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 722

(Senator Miller)

Judicial Proceedings

Standing Circuit Court Masters - Powers

This bill mandates, by amendment to the Maryland Constitution, the creation of circuit court masters in the number and with the qualifications and compensation prescribed by law. Their powers may relate only to circuit court domestic relations cases and juvenile causes as prescribed by law or rule including: (1) contested and uncontested divorce, annulment, property distribution, and alimony; (2) contested and uncontested child custody, visitation, and support; (3) civil contempt; (4) domestic violence orders; and (5) peace orders.

Fiscal Summary

State Effect: The bill would permit the reallocation of cases between judges and masters, but would not directly affect State finances.

Local Effect: To the extent that the bill results in reallocation of cases or proceedings to masters, local revenues may increase in counties that charge fees for a master's services.

Small Business Effect: None.

Analysis

Current Law: A master is an officer of the court appointed by a circuit court through the court's constitutional authority granted under Article IV, Section 9 of the Maryland Constitution. As officers of the court, masters perform advisory, clerical, and ministerial functions only. "A master is not a judicial officer, and the Maryland Constitution does

not vest a master with any judicial powers.” *Wiegmann v. State*, 350 Md. 585, 593, 714 A.2d 841 (1998).

As an officer of the court, a master’s authority must derive from statute or rule. *Id.* Under the Maryland Rules, when a court has a standing master for domestic relations causes and a hearing is sought or required by law, the following matters must be referred to the master as a matter of course unless the court directs otherwise in a specific case:

- uncontested divorce, annulment, or alimony;
- alimony pendente lite;
- child support pendente lite;
- support of dependents;
- preliminary or pendente lite possession or use of the family home or family-use personal property;
- with the exception of cases sent to mediation, pendente lite custody or visitation with children or modification of an existing order or judgment as to custody or visitation;
- with the exception of child access related cases sent to mediation, constructive civil contempt by reason of noncompliance with an order or judgment relating to custody of or visitation with a minor child, the payment of alimony or support, or the possession or use of the family home or family-use personal property, following service of a show cause order on the person alleged to be in contempt;
- modification of an existing order or judgment as to payment of alimony or support or as to possession or use of the family home or family-use personal property;
- counsel fees and assessment of court costs in any of these matters;
- stay of an earnings withholding order; and
- other family law matters as set forth in the court’s case management plan.

Also under the Maryland Rules, a master has the power to regulate all proceedings in the hearing, including the powers to:

- administer oaths to witnesses;
- rule upon the admissibility of evidence;
- examine witnesses;
- convene, continue, and adjourn the hearing, as required;
- recommend contempt proceedings or other sanctions to the court; and
- recommend findings of fact and conclusions of law.

In general, proceedings before a master proceed as follows. The proceedings are recorded stenographically or electronically. At the conclusion of the hearing, the master prepares written recommendations including the master's findings and a proposed order. The master must notify all parties of the recommendations within a prescribed time period, and file the recommendations and proposed order with the court. The parties then may file exceptions following procedures outlined in the Maryland Rules, and may request that a hearing be held on the exceptions. The court (*i.e.*, a judge) then must hold a hearing on any exceptions if a hearing was timely requested, and must rule on any exceptions filed. If no hearing is requested the court may rule on the exceptions without a hearing. After the time for filing exceptions has expired and the court has ruled on any exceptions filed, the court may direct the entry of an order or judgment based upon the master's recommendations. On recommendation by the master that an individual be found in contempt, the court may hold a hearing and direct the entry of an order at any time. The order may not include a sanction of incarceration.

Background: Circuit court masters are local government employees whose salaries are paid by the State. There are currently 57 masters. Maryland's circuit courts heard 140,405 family and juvenile cases in fiscal 2001.

Local Effect: Some local governments charge a fee for a master's services. The counties and fees for services are provided below:

Master Paid Directly by the Parties

Carroll County	all proceedings	\$100/hr. or \$10/ea. 6 mins.
Harford County	uncontested divorce	\$100
	supplemental proceeding	\$ 50
	contested pendente lite hearing	\$ 35

Master's Fee Paid by the Court

Calvert County	per case	\$100
Charles County	per case	\$ 75
Garrett County	uncontested case	\$ 60
	contested case	\$100
Howard County	per case	\$ 75
Montgomery County	per case	\$125
Prince George's County	new filing	\$125
	supplemental filing	\$ 25
St. Mary's County	cases other than CINA or IV-D	\$ 75

To the extent that the bill results in reallocation of cases or proceedings to masters, local revenues in these counties would increase accordingly.

The Maryland Constitution requires that proposed amendments to the constitution be publicized either: (1) in at least two newspapers in each county, if available and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the fiscal 2003 budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2002 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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Analysis by: Debra A. Dickstein

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510