

**Unofficial Draft Copy**

As of: August 24, 2010 (11:13am)

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\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the Law and Justice Interim Committee

A Bill for an Act entitled: "An Act revising the laws relating to search warrants; providing for the appointment of standing masters in the 1st judicial district to handle statewide search warrant applications during days and hours that courts are not in session; amending section 46-5-220, MCA; and providing an immediate effective date and an applicability date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Nonjudicial hours -- search**

**warrants -- appointment of standing master.** (1) The judges of the district court of the 1st judicial district shall appoint one or more standing masters to receive applications for search warrants on legal holidays, on nonjudicial days, and during hours that courts are not in session. The authority of a standing master appointed under this section to issue search warrants extends to all parts of the state.

(2) An application for a search warrant may be made to a standing master appointed under this section during the time periods provided in subsection (1).

(2) The application for and issuance of search warrants under this section shall comply with the provisions of Title 46, chapter 5, part 2.

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1 (3) A standing master appointed under this section must  
2 meet the qualifications of a justice of the peace under 3-10-202  
3 and be a resident of the 1st judicial district.

4 (4) All proceedings before a special master under this  
5 section must be conducted in a suitable room in the courthouse.  
6 An application for a search warrant under this section may be  
7 made to the special master in person, by telephone, or by the use  
8 of two-way electronic audio-visual communication. All records of  
9 a standing master appointed under this section must be kept in  
10 accordance with the rules governing the district court and 46-5-  
11 222, as applicable.

12 (5) The expenses of a standing master appointed under this  
13 section shall be paid as provided in 3-5-901.

14  
15 **Section 2.** Section 46-5-220, MCA, is amended to read:

16 **"46-5-220. Authority to issue search warrant.** (1) A peace  
17 officer, the city or county attorney, or the attorney general may  
18 apply for a search warrant.

19 (2) A search warrant may be issued by:

20 (a) a city or municipal court judge or justice of the peace  
21 within the judge's geographical jurisdiction; or

22 (b) a district court judge or a standing master appointed  
23 under [section 1] within this state.

24 (3) For purposes of this chapter, a reference to "judge"  
25 includes a reference to a standing master appointed under  
26 [section 1]."

27 {Internal References to 46-5-220: None.}

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NEW SECTION. **Section 3. {standard} Codification**  
**instruction.** [Section 1] 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 1].

NEW SECTION. **Section 4. {standard} Effective date.** [This  
act] is effective on passage and approval.

NEW SECTION. **Section 5. {standard} Applicability.** [This  
act] applies to applications for search warrants that are made on  
or after [the effective date of this act].

- END -

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