

House Bill 73

By: Representatives Lane of the 167<sup>th</sup> and Willard of the 49<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 6 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated,  
2 relating to civil trials, so as to provide for the appointment of special masters; to provide for  
3 authority; to provide for orders and reports; to provide for related matters; to repeal  
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 6 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to civil  
8 trials, is amended by adding a new Code section to read as follows:

9 "9-11-53.

10 (a) *Appointment.*

11 (1) Unless a statute provides otherwise, a court may appoint a master only to:

12 (A) Perform duties consented to by the parties;

13 (B) Hold trial proceedings and make or recommend findings of fact on issues to be  
14 decided by the court without a jury if appointment is warranted by:

15 (i) Some exceptional condition; or

16 (ii) The need to perform an accounting or resolve a difficult computation of damages;

17 or

18 (C) Address pretrial and post-trial matters that cannot be addressed effectively and  
19 timely by an available State or Superior Court judge.

20 (2) A master must not have a relationship to the parties, counsel, action, or court that  
21 would require disqualification of a judge under Code Section 15-1-8, unless the parties  
22 consent with the court's approval to appointment of a particular person after disclosure  
23 of any potential grounds for disqualification.

24 (3) In appointing a master, the court must consider the fairness of imposing the likely  
25 expenses on the parties and must protect against unreasonable expense or delay.

26 (b) Order Appointing a Master.

27 (1) The court must give the parties notice and an opportunity to be heard before  
28 appointing a master. A party may suggest candidates for appointment.

29 (2) The order appointing a master must direct the master to proceed with all reasonable  
30 diligence and must state:

31 (A) The master's duties, including any investigation or enforcement duties, and any  
32 limits on the master's authority under subsection (c) of this Code section;

33 (B) The circumstances, if any, in which the master may communicate ex parte with the  
34 court or a party;

35 (C) The nature of the materials to be preserved and filed as the record of the master's  
36 activities;

37 (D) The time limits, method of filing the record, other procedures, and standards for  
38 reviewing the master's orders, findings, and recommendations; and

39 (E) The basis, terms, and procedure for fixing the master's compensation under  
40 subsection (h) of this Code section.

41 (3) The court may enter the order appointing a master only after the master has filed an  
42 affidavit disclosing whether there is any ground for disqualification under Code Section  
43 15-1-8 and, if a ground for disqualification is disclosed, after the parties have consented  
44 with the court's approval to waive the disqualification.

45 (4) The order appointing a master may be amended at any time after notice to the parties  
46 and an opportunity to be heard.

47 (c) Master's Authority. Unless the appointing order expressly directs otherwise, a master  
48 has authority to regulate all proceedings and take all appropriate measures to perform fairly  
49 and efficiently the assigned duties. The master may by order impose upon a party any  
50 noncontempt sanction provided by Code Section 9-11-37 or 9-11-45, and may recommend  
51 a contempt sanction against a party and sanctions against a nonparty.

52 (d) Evidentiary Hearings. Unless the appointing order expressly directs otherwise, a  
53 master conducting an evidentiary hearing may exercise the power of the appointing court  
54 to compel, take, and record evidence.

55 (e) Master's Orders. A master who makes an order must file the order and promptly serve  
56 a copy on each party. The clerk must enter the order on the docket.

57 (f) Master's Reports. A master must report to the court as required by the order of  
58 appointment. The master must file the report and promptly serve a copy of the report on  
59 each party unless the court directs otherwise.

60 (g) Action on Master's Order, Report, or Recommendations.

61 (1) In acting on a master's order, report, or recommendations, the court must afford an  
 62 opportunity to be heard and may receive evidence, and may: adopt or affirm; modify;  
 63 wholly or partly reject or reverse; or resubmit to the master with instructions.

64 (2) A party may file objections to or a motion to adopt or modify the master's order,  
 65 report, or recommendations no later than 20 days from the time the master's order, report,  
 66 or recommendations are served, unless the court sets a different time.

67 (3) The court must decide de novo all objections to findings of fact made or  
 68 recommended by a master unless the parties stipulate with the court's consent that:

69 (A) The master's findings will be reviewed for clear error; or

70 (B) The findings of a master appointed under subparagraphs (a)(1)(A) or (C) of this  
 71 Code section will be final.

72 (4) The court must decide de novo all objections to conclusions of law made or  
 73 recommended by a master.

74 (5) Unless the order of appointment establishes a different standard of review, the court  
 75 may set aside a master's ruling on a procedural matter only for an abuse of discretion.

76 (h) Compensation.

77 (1) The court must fix the master's compensation before or after judgment on the basis  
 78 and terms stated in the order of appointment, but the court may set a new basis and terms  
 79 after notice and an opportunity to be heard.

80 (2) The compensation fixed under paragraph (1) of subsection (h) of this Code section  
 81 must be paid either:

82 (A) By a party or parties; or

83 (B) From a fund or subject matter of the action within the court's control.

84 (3) The court must allocate payment of the master's compensation among the parties after  
 85 considering the nature and amount of the controversy, the means of the parties, and the  
 86 extent to which any party is more responsible than other parties for the reference to a  
 87 master. An interim allocation may be amended to reflect a decision on the merits."

88 **SECTION 2.**

89 All laws and parts of laws in conflict with this Act are repealed.