62nd Legislature SB0040.01

| 1  | SENATE BILL NO. 40   |
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| 2  | INTRODUCED BY J. SHOCKLEY  |
| 3  | BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE  |
| 4  |  |
| 5  | A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO SEARCH WARRANTS                                      |
| 6  | PROVIDING FOR THE APPOINTMENT OF STANDING MASTERS IN THE FIRST JUDICIAL DISTRICT TO                                    |
| 7  | HANDLE STATEWIDE SEARCH WARRANT APPLICATIONS DURING DAYS AND HOURS THAT COURTS   |
| 8  | ARE NOT IN SESSION; AMENDING SECTION 46-5-220, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE                               |
| 9  | DATE AND AN APPLICABILITY DATE."   |
| 10 |  |
| 11 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  |
| 12 |  |
| 13 | NEW SECTION. Section 1. Nonjudicial hours search warrants appointment of standing                                      |
| 14 | master. (1) The judges of the district court of the first judicial district shall appoint one or more standing masters |
| 15 | to receive applications for search warrants on legal holidays, on nonjudicial days, and during hours that courts       |
| 16 | are not in session. The authority of a standing master appointed under this section to issue search warrants           |
| 17 | extends to all parts of the state.   |
| 18 | (2) An application for a search warrant may be made to a standing master appointed under this section                  |
| 19 | during the time periods provided in subsection (1).  |
| 20 | (3) The application for and issuance of search warrants under this section shall comply with the                       |
| 21 | provisions of Title 46, chapter 5, part 2.   |
| 22 | (4) A standing master appointed under this section must meet the qualifications of a justice of the peace              |
| 23 | under 3-10-202 and be a resident of the first judicial district.   |
| 24 | (5) All proceedings before a special master under this section must be conducted in a suitable room in                 |
| 25 | the courthouse. An application for a search warrant under this section may be made to the special master in            |
| 26 | person, by telephone, or by the use of two-way electronic audio-visual communication. All records of a standing        |
| 27 | master appointed under this section must be kept in accordance with the rules governing the district court and         |
| 28 | 46-5-222, as applicable.   |
| 29 | (6) The expenses of a standing master appointed under this section shall be paid as provided in 3-5-901.               |
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| 1  | Section 2. Section 46-5-220, MCA, is amended to read:  |
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| 2  | "46-5-220. Authority to issue search warrant. (1) A peace officer, the city or county attorney, or the               |
| 3  | attorney general may apply for a search warrant.   |
| 4  | (2) A search warrant may be issued by:   |
| 5  | (a) a city or municipal court judge or justice of the peace within the judge's geographical jurisdiction; or         |
| 6  | (b) a district court judge or a standing master appointed under [section 1] within this state.                       |
| 7  | (3) For purposes of this chapter, a reference to "judge" includes a reference to a standing master                   |
| 8  | appointed under [section 1]."  |
| 9  |  |
| 10 | NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an                       |
| 11 | integral part of Title 3, chapter 5, part 1, and the provisions of Title 3, chapter 5, part 1, apply to [section 1]. |
| 12 |  |
| 13 | NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.                             |
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| 15 | NEW SECTION. Section 5. Applicability. [This act] applies to applications for search warrants that are               |
| 16 | made on or after [the effective date of this act].   |
| 17 | - END -  |

