

ly: the first day of January, commonly called New Year's Day; the third day of January, 1960, known as "Admission Day"; the twelfth day of February, commonly called Lincoln's birthday; the twenty-second day of February, commonly called Washington's birthday; the thirtieth day of March, to be called Seward's Day in commemoration of the signing of the treaty ceding Alaska to the United States; the fourth day of July, commonly called Independence Day; the first Monday in September, commonly called Labor Day; the eighteenth day of October, commonly called Alaska Day; the elev-

enth day of November, commonly called Veterans' Day; the twenty-fifth day of December, commonly called Christmas Day; and any day designated by public proclamation by the President of the United States or the Governor of the State of Alaska, as a legal holiday, or as a day of Thanksgiving; and the day known and observed as Memorial or Decoration Day. When any holiday listed above falls upon a Sunday, the following Monday shall be declared to be a legal holiday. Sunday shall also be considered a legal holiday.

Approved May 5, 1959

CHAPTER 184

AN ACT

Establishing the district magistrate courts; providing for their jurisdiction and venue, the appointment, qualification and compensation of district magistrates and deputy district magistrates; providing for their functions, power and duties, for appeal from judgments thereof; and providing for an effective date.

(H.C.S.S.B. 117)

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

Article I

District Magistrate Courts

Section 1. Establishment of District Magistrate Courts. There is hereby created and established in each of the four judicial districts of the superior court of this state, a district magistrate court for each such district.

Sec. 2. Number of Magistrates.

(1) **District Magistrates.** Except as hereinafter provided, each of the district magistrate courts established in the judicial districts shall have the number of district magistrates set out below opposite the name of the judicial district over which such court has jurisdiction:

- First Judicial District 3
- Second Judicial District 1
- Third Judicial District 4
- Fourth Judicial District 2

The number of district magistrates within each judicial district may be increased or decreased by rule of the supreme court.

(2) **Deputy Magistrates.** Except as hereinafter provided, each of the district magistrate courts established in the judicial districts shall have the number of deputy magistrates set out below opposite the name of the judicial district over which such court has jurisdiction:

- First Judicial District 10
- Second Judicial District 7
- Third Judicial District 19
- Fourth Judicial District 17

The number of deputy magistrates within each judicial district may be increased or decreased by rule of the supreme court.

Sec. 3. Civil Jurisdiction.

(1) The district magistrate court shall have jurisdiction of civil cases and proceedings as follows:

(a) For the recovery of money or damages only when the amount claimed exclusive of costs, interest and attorneys fees does not exceed three thousand (\$3,000.00) dollars;

(b) For the recovery of specific personal property, when the value of the property claimed and the damages for the detention do not exceed three thousand (\$3,000.00) dollars;

(c) For the recovery of any penalty or forfeiture, whether given by statute or arising out of contract, not exceeding three thousand (\$3,000.00) dollars;

(d) To give judgment without action upon the confession of the defendant for any of the cases specified in this section, except for a penalty or forfeiture imposed by statute;

(e) For establishing the fact of death of any person in the manner prescribed in Ch. 89, SLA 1953;

(f) For cases involving minors under the age of eighteen years and arising under the provisions of Ch. 145, SLA 1957, as amended;

(g) For proceedings under the "Village Incorporation Act of 1957" Ch. 150, SLA 1957).

(2) Insofar as the civil jurisdiction of the district magistrate courts and the superior court is the same, such jurisdiction is concurrent.

Sec. 4. Same: Actions Not Within Jurisdiction. The jurisdiction conferred by the last section does not extend however—

(1) To an action in which the title to real property shall come in question;

(2) To an action for false imprisonment, libel, slander, malicious prosecution, criminal conversation, seduction upon a promise to marry, in actions of an equitable nature, or in actions where the state is a defendant.

Sec. 5. Criminal Jurisdiction.

(1) The district magistrate court shall have jurisdiction of the following crimes:

(a) Of any misdemeanor unless herein otherwise provided.

(b) Violations of ordinances of political subdivisions.

(2) Insofar as the criminal jurisdiction of the district magistrate courts and the superior court is the same, such jurisdiction is concurrent.

Sec. 6. Jurisdiction and Venue.

(1) The criminal jurisdiction of the district magistrate court shall extend over the entire state; the civil jurisdiction of said court shall extend over the whole of the judicial district.

(2) The court in which the action is pending shall change the place of trial in any action from one place to another place in the same judicial district or to a designated place in another judicial district when the court finds any of the following:

(a) There is reason to believe that an impartial trial cannot be had therein;

(b) The convenience of witnesses and the ends of justice would be promoted by the change;

(c) The magistrate is disqualified from acting; but in such event, if another magistrate is assigned to try the action, no change of place of trial need be made;

(d) That the defendant will be put to unnecessary expense and inconvenience. Should the court find that said expense and inconvenience was intentionally caused, the court may assess costs against the plaintiff.

Sec. 7. Sessions and General Powers of District Magistrate Court.

(1) The district magistrate court shall always be open for the transaction of business, except on judicial holidays as determined by rule of the supreme court; provided, however, that the court may at any time:

(a) Exercise its powers in a criminal action, or in a proceeding of a criminal nature, including the issuance of orders pertaining to bail,

(b) Receive a verdict or discharge a jury,

- (c) Issue writs of habeas corpus,
- (d) Issue warrants of arrest and summons and search warrants.

(2) The court shall meet in its district at such times and at such place or places therein as may be designated by rule or order of the supreme court. The district magistrate courts are vested with all power and authority necessary to carry into complete execution all their judgments, decrees and determinations in all matters within their jurisdiction according to the constitution, the laws of the state and the common law.

Sec. 8. Functions, Powers and Duties of District Magistrate and Deputy Magistrate.

(1) The district magistrate and deputy magistrate shall have the power:

(a) To issue writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, which writs shall be made returnable before a judge of the superior court and like proceedings shall be had thereon as if the same had been granted by the superior court judge under the laws of the state in such cases.

(b) Of a notary public.

(c) To issue marriage licenses and to solemnize marriages.

(d) To issue warrants of arrest, summons and search warrants according to manner and procedure prescribed by law and the supreme court.

(e) To act as examining magistrates in preliminary examinations in criminal proceedings.

(f) To act as referees in all matters and actions referred to them by the superior court as such, with all powers conferred upon referees by law.

(g) Of the superior court in all respects including but not limited to contempts, attendance of witnesses and bench warrants.

(2) The district magistrate and the deputy magistrate are hereby charged with the following duties:

(a) To perform the duties and

exercise the authority of coroner as such duties and authority are or may hereafter be prescribed by law.

(b) To record births, deaths and marriage certificates presented to them for record in the manner prescribed by law.

(3) Except as provided in section 19 as to the deputy magistrate, the district magistrate and deputy magistrate shall have all the powers, duties and functions as are now or may hereafter be conferred by territorial or state law upon United States Commissioners as ex-officio justices of the peace and upon municipal magistrates.

Sec. 9. Seal of Court. The seal of the district magistrate court shall be a vignette of the official flag of Alaska with the words "Seal of the District Magistrate Court of the State of Alaska for the (number of district) Judicial District", surrounding the vignette.

Sec. 10. Process. Process of the district magistrate court shall be in the name of the "State of Alaska", be signed by the district magistrate or deputy magistrate in the judicial district where the process is issued, be dated when issued, sealed with the seal of the court, and made returnable according to rule prescribed by the supreme court and shall run throughout the state.

Sec. 11. Qualifications of Magistrates.

(1) **District Magistrates.** A district magistrate shall be a citizen of the United States and of the state, 21 years of age or older, a resident of the state for at least 90 days immediately preceding his appointment, and at the time of his appointment licensed to practice law in at least one of the states of the United States, providing, however, that if a competent, licensed attorney is not available for appointment, a person otherwise qualified may be appointed. The supreme court may prescribe additional qualifications.

(2) **Deputy Magistrates.** A deputy magistrate shall be a citizen of the United States and of the state, twenty-one years of age or over, and a resident of the state for at least six months immediately preceding his appointment. The supreme

court may prescribe additional qualifications.

Sec. 12. Selection and Tenure of Magistrates. The presiding judge of the superior court in each judicial district shall appoint the district magistrates and deputy magistrates for the district magistrate court for his judicial district. They shall serve at the pleasure of such presiding judge. Vacancies shall be filled in the same manner as appointment.

Sec. 13. Oath of Office. Each district magistrate and deputy magistrate, upon entering office, shall take and subscribe to an oath of office required of all officers under the constitution and such further oaths or affirmations as may be prescribed by law.

Sec. 14. Assignment of Magistrates. A district magistrate or deputy magistrate shall hold court at such times and places as are assigned by the presiding judge of the superior court of their district. The presiding judge in any judicial district may assign any district magistrate or deputy magistrate within his district to serve temporarily in any other judicial district. Rules and procedures for such temporary assignment including the emergency situation where a superior court judge is not readily available to assign a magistrate shall be as prescribed by the supreme court.

Sec. 15. Incapacity. Whenever a district magistrate or deputy magistrate appears to be so incapacitated as substantially to prevent him from performing his duties, and is not removed by the presiding judge of the superior court of his district, the supreme court may remove him, after notice and hearing, by majority vote of its members. Notice of the hearing shall be given to such magistrate in writing at least thirty days prior thereto.

Sec. 16. Restrictions.

(1) **District Magistrate.** A district magistrate, while holding office, may not practice law, except before a federal district court or federal agency and when such practice does not interfere with the performance of his official duties as magistrate, engage in the conduct of any other profession, vocation or business for

profit or compensation, hold office in a political party, or hold any other office or position of profit under the United States, the state or its political subdivisions, except that the district magistrate may be appointed deputy clerk of the superior court. Any district magistrate filing for an elective public office forfeits his judicial position.

(2) **Deputy Magistrate.** A deputy magistrate, while holding office, may not hold office in a political party. He may hold any other office or position of profit under the United States, the state or its political subdivisions, or engage in the conduct of any profession or business which does not interfere with the performance of his judicial duties or require that he repeatedly disqualify himself from judicial service because of a conflict of interest caused thereby.

Sec. 17. Compensation.

(1) Each district magistrate shall receive annual compensation to be determined by the supreme court, but in any event not to exceed \$10,000.00. Such compensation shall be payable annually in twelve equal monthly installments.

(2) Each deputy magistrate shall receive annual compensation to be determined by the supreme court.

(3) No salary warrant shall be issued to any district magistrate or deputy magistrate until he has made and filed with the state officer designated to issue salary warrants, an affidavit that no matter referred to him for opinion or decision has been uncompleted or undecided by him for a period of more than six months.

Sec. 18. Additional Compensation. Subject to rule of the supreme court, a district magistrate or deputy magistrate shall receive a per diem allowance and a transportation allowance commensurate with that authorized for other state employees.

Sec. 19. Limitations on Powers of Deputy Magistrate. The powers of the deputy magistrate are limited and he shall only preside in cases and proceedings as follows except as provided in Sec. 8:

(1) For the recovery of money or

damages only when the amount claimed exclusive of costs, interest and attorneys fees does not exceed two hundred fifty (\$250.00) dollars;

(2) For the recovery of specific personal property, when the value of the property claimed and the damages for the detention do not exceed five hundred (\$500.00) dollars;

(3) For the recovery of any penalty or forfeiture, whether given by statute or arising out of contract, not exceeding five hundred (\$500.00) dollars;

(4) To give judgment without action upon the confession of the defendant for any of the cases specified in this section, except for a penalty or forfeiture imposed by statute;

(5) To act as examining magistrate in preliminary examinations in criminal proceedings; to set and receive bail and to order the release of defendants under bail;

(6) To give judgment of conviction upon a plea of guilty by the defendant in all criminal proceedings within the jurisdiction of the district magistrate court;

(7) To hear, try and enter judgments in all cases involving misdemeanors, other than violations of ordinances of political subdivisions, if the defendant consents in writing that the deputy magistrate shall try him; and,

(8) To hear, try and enter judgments in all cases involving violations of ordinances of political subdivisions.

Sec. 20. **Appeal.**

(1) **Civil.** Any judgment of the district magistrate court in a civil action may be appealed by either party to the superior court when the sum in controversy is not less than fifty (\$50.00) dollars, or for the recovery of personal property of the value of not less than fifty (\$50.00) dollars exclusive of costs in either case, except when the sum is given by confession or for want of an answer and not otherwise.

(2) **Criminal.** Any judgment of conviction given in the district magistrate court in a criminal action may be appealed by the defendant to the super-

ior court, except when such judgment is given on a plea of guilty, provided that the supreme court by rule may provide for review of a judgment given on a plea of guilty. The state shall have no right of appeal in criminal actions for which judgment is given in the district magistrate courts, except to test the sufficiency of the information.

(3) **Time for Appeal: Trial De Novo.** Appeals shall be taken within thirty days from the date of entry of the judgment. All appeals shall be trials de novo.

(4) **Further Rules.** The supreme court shall prescribe further rules for the procedure for appeals from district magistrate courts.

Sec. 21. Fines: Disposition of. Whenever pursuant to law, any fees, fines, forfeitures, or penalties are levied and collected by the district magistrate or deputy magistrate, the proceeds thereof and all other monies collected shall be accounted and transmitted to the administrative director of the judicial system for transfer to the general fund of the state except as provided in Section 23 of this Act.

Sec. 22. Bond. Before entering upon his duties each district magistrate and deputy magistrate shall execute and file with the administrative director a surety bond in form and amount to be determined by rule of the supreme court. Such bond shall be paid for by the state.

Sec. 23. Retention of Fines, Etc., by Political Subdivisions. All fines, penalties and forfeitures resulting from violations of ordinances of political subdivisions shall be remitted to the political subdivision whose ordinance is involved in such manner as may be provided by rule of the supreme court, provided that the political subdivision shall pay to the state administrative director of the court for transfer to the general fund of the state such sums as shall pay for the judicial services rendered to the political subdivision by the magistrate rendering such services. Fines, penalties and forfeitures imposed after appeals shall accrue to the state, unless the appeal is prosecuted by the political subdivision.

Article II

Organization

Sec. 24. Commencement and Transfer of Causes.

(1) The district magistrate courts herein established shall be deemed organized for the purpose of transferring causes as provided in Section 17, Article XV of the Constitution of the State of Alaska, on the third day of January, 1962. Provided, however, that causes may be commenced, filed and determined in the district magistrate court in each judicial district upon appointment of one or more district magistrates or deputy magistrates for such court.

(2) The jurisdiction of the courts of this state, including the district magistrate courts in this Act provided, shall be exclusive from and after the third day of January, 1962, but prior to that date shall be non-exclusive, and nothing in this Act shall diminish or deprive: (a) the District Court of the District of Alaska, including United States marshals, commissioners and other officers thereof, or the Court of Appeals or the Supreme Court of the United States of jurisdiction as provided in Public Law 508, 85th Congress, and other laws applicable thereto; or (b) the municipal magistrate courts of jurisdiction as provided by law.

Sec. 25. **Declaration of Intent.** It is the intent of the Legislature by the passage of this Act to implement the organization of the state courts provided for in the Constitution of the State of Alaska by establishing subordinate courts as an integral part of a unified judicial system. To this end, the district magistrate courts as herein established shall constitute the sole and exclusive subordinate court system of the state. Their jurisdiction is hereby declared to be supplementary to the original jurisdiction of the superior court, and to the extent provided herein shall be concurrent therewith.

The Legislature recognizes that, because of the size and scattered population of the state, with its remote and isolated settlements, complexities within a unified court system necessarily arise. Therefore, in order to avoid a duplication of subordinate court jurisdictions, and to

provide prompt and efficient administration of justice, there is established in this Act a single subordinate court within each judicial district, but with each such district magistrate court having as court officers district magistrates with general trial power within the limits of the court's jurisdiction and deputy magistrates of limited trial power sufficient to meet the immediate requirements of justice in the less populated areas of the state.

Sec. 26. **Method of Transition: Recording.** To affect the intention expressed in Sec. 25, the district magistrate courts shall be organized in the following manner:

(1) The Judicial Council shall, in cooperation with and through the facilities of the Legislative Council, institute studies and make reports and recommendations with regard to the facilities needed for the district magistrate courts of the state. Such studies and reports shall include, but not be limited to, necessary courtroom facilities and the location thereof; the number and nature of court attaches, and personnel and the estimated salary requirements of each position; recommended rules governing practice and procedure in civil and criminal cases; an estimated annual budget of the costs of operating the proposed subordinate court system and an estimate of the capital outlay required for physical facilities such as courtrooms, and furnishings and such additional information with regard to the administration of justice through the subordinate court system as may be required to fully inform the Legislature upon the subject.

(2) Upon the appointment within any judicial district of a presiding judge of the superior court, he may appoint any or all of the magistrates of the district magistrate court within his district in such manner as will provide a gradual series of appointments consistent with the availability of facilities and personnel.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, in the event that either: (a) a court of competent jurisdiction, by final judgment, declares that the District Court of the District of Alaska lacks jurisdiction to determine causes arising under the

laws of the state, notwithstanding the provisions of Public Law 508, 85th Congress; or (b) the President of the United States, by executive order, terminates the jurisdiction of the District Court of the District of Alaska; and thereafter the supreme and superior courts of the state assume exclusive state jurisdiction, the presiding judges of the superior court shall forthwith appoint the necessary magistrates for the district magistrate courts as provided herein and in any event shall so appoint such necessary magistrates prior to January 3, 1962. If the events described in the preceding sentence take place the Supreme Court is hereby empowered to establish, modify or discontinue recording districts or precincts; to prescribe the records to be maintained and the instruments to be

recorded and the accounting for recording fees; to engage and compensate recorders, deputy recorders and clerks, to require magistrates to act as recorders where, and to the extent, necessary; to prescribe recording fees and to do all things necessary to maintain the recording system existing on the effective date hereof, until the Legislature otherwise provides by law.

Sec. 27. Severability. The fact that any section, subsection, sentence, clause or phrase of this Act is declared invalid for any reason shall not affect the remaining portion of this Act.

Sec. 28. Effective Date. This Act shall take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved May 5, 1959

CHAPTER 185

AN ACT

Relating to the powers of the Local Boundary Commission; providing for an effective date.

(C.S.H.B. 94)

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

Section 1. Commission Defined. The Local Boundary Commission created by the State Organization Act of 1959 is the commission referred to in this Act.

Sec. 2. Powers. The commission may consider any local government boundary or any proposed local government boundary change and exercise such other powers as may be prescribed by law. It shall present proposed local government boundary or local government boundary changes to the legislature during the first ten days of any regular session. The boundary or boundary change as recommended shall become effective forty-five days after presentation to the legislature or at the end of the legislative session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house of the

legislature. Cities shall have such powers regarding boundaries as conferred on them by general law. The commission may recommend to the legislature the procedures whereby a local government boundary may be adjusted by local action.

Sec. 3. Meetings: Quorum. The commission shall meet at such times and such places as may be necessary to carry out the purpose of this Act. A majority of the full membership of the commission shall constitute a quorum to transact business; provided, that it shall take an affirmative vote of the majority of the membership to carry all decisions or proposals.

Sec. 4. Effective Date. This Act shall take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved May 6, 1959