

expended for capital equipment.

Sec. 5. **Effective Date.** This Act shall

take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved March 17, 1959

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## CHAPTER 48

### AN ACT

**Directing the Legislative Council to conduct and prepare a study and proposed legislation on the Judicial branch of the State government; and providing for an effective date.**

(C.S.S.B. 2)

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

Section 1. **Authorization.** The Legislative Council is hereby directed to conduct a study and prepare appropriate legislation designed to establish an overall judicial system for the State of Alaska. The study shall include a review of all facets of the Judicial branch of the State government, including a comprehensive judicial code, the physi-

cal facilities needed, and the initial capital outlay and annual operating costs anticipated. The study and accompanying legislation shall be completed and presented to this Legislature within 90 days from the day this Act becomes law.

Sec. 2. **Effective Date.** This Act shall take effect immediately upon its passage and approval, or upon its becoming law without such approval.

Approved March 19, 1959

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## CHAPTER 49

### AN ACT

**To appropriate the sum of \$21,000.00 to the Legislative Council to carry out the provisions of House Committee Substitute for Senate Bill No. 2; and setting an effective date.**

(S.B. 36)

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

Section 1. **Appropriation.** There is hereby appropriated out of any monies in the General Fund not otherwise appropriated the sum of \$21,000.00 to the Legislative Council, to carry out the provisions of House Committee Substitute for Senate Bill No. 2, First Legisla-

ture, First Session, an Act authorizing an expenditure of \$21,000.00 for the purpose of conducting and preparing a study on the State Judicial branch of government.

Section 2. **Effective Date.** This Act shall take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved March 19, 1959

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## CHAPTER 50

### AN ACT

**Relating to the supreme and superior courts of the State of Alaska; providing for the promulgation of rules of civil and criminal proceedings within the courts of**

the State of Alaska; providing for their jurisdiction, the nomination, appointment, and qualification of justices and judges; providing for periodical approval by the voters; providing for the filling of vacancies and removal of justices and judges; providing for the compensation of justices and judges; providing for the administration of the court system; and providing for an effective date.

(C.S.S.B. 7)

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

### Article I. Supreme Court

**Section 1. Jurisdiction.** The supreme court has final appellate jurisdiction in all actions and proceedings. The supreme court may issue injunctions, writs of review, mandamus, certiorari, prohibition, habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate and other jurisdiction. Each of the justices may issue writs of habeas corpus, upon petition by or on behalf of any person held in actual custody and may make such writs returnable before the justice himself or before the supreme court, or before any judge of the superior court of the State. Appeals to the supreme court shall be a matter of right, except that the State shall have no right of appeal in criminal cases, except to test the sufficiency of the indictment or information.

**Sec. 2. Court of Record: Composition: General Powers.** The supreme court is a court of record, consists of three justices including the chief justice, and is vested with all power and authority necessary to carry into complete execution all its judgments, decrees and determinations in all matters within its jurisdiction, according to the Constitution, the laws of the State, and the common law.

**Sec. 3. Sessions of Court.** The supreme court shall always be open for the transaction of business in the manner determined by rule of the court. The supreme court shall hold sessions on dates and at places fixed by court rule.

The administrative director of courts shall maintain his office at the same place in the State as the supreme court maintains its headquarters.

**Sec. 4. Effect of Adjournment.** Adjournments from day to day, or from time to time, are to be construed as

recesses in the session, and shall not prevent the court from sitting at any time.

**Sec. 5. Process.** Process of the supreme court shall be in the name of the "State of Alaska", be signed by the clerk of the court or his deputy, be dated when issued, sealed with the seal of the court, and made returnable according to rule prescribed by the court.

**Sec. 6. Seal of Court.** The seal of the supreme court shall be a vignette of the official flag of Alaska with the words "Seal of the Supreme Court of the State of Alaska", surrounding the vignette.

**Sec. 7. Qualifications of Justices.** A justice of the supreme court shall be a citizen of the United States and of the State, a resident of Alaska for three years immediately preceding his appointment, have been engaged for not less than eight years immediately preceding his appointment in the active practice of law, and at the time of appointment be licensed to practice law in Alaska. The active practice of law shall include:

(1) Sitting as a judge in a state or territorial court.

(2) Actually being engaged in advising and representing clients in matters of law.

(3) Rendering legal services to any agency, branch, or department of a civil government within the United States or any state or territory thereof, in an elective, appointive or employed capacity.

(4) Serving as a professor, associate professor, or assistant professor in a law school accredited by the American Bar Association.

### Sec. 8. Vacancies.

(1) **Initial Vacancies.** The Governor shall initially fill the offices of supreme court justices, including the

office of chief justice, within forty-five days after receiving nominations from the Judicial Council, by appointing one of two or more persons nominated by the Council for each position.

(2) **Vacancies.** The Governor shall fill any vacancy in the offices of supreme court justices, including the office of chief justice, within forty-five days after receiving nominations from the Judicial Council, by appointing one of two or more persons nominated by the Council for each vacant position.

The office of a supreme court justice, including the office of chief justice, becomes vacant ninety days after the election at which he is rejected by a majority of those voting on the question, or for which he failed to file his declaration of candidacy to succeed himself, and his successor may be appointed during this period, such appointment to become effective upon the vacancy occurring. A vacancy in said offices may also occur by reason of the death, retirement, resignation, forfeiture, or removal from office of any justice. In the event of any vacancy other than an initial vacancy, or immediately upon certification of rejection following an election, or immediately upon failure of a justice to file declaration of candidacy, the Judicial Council shall meet within thirty days after any of the said events occur and submit to the Governor the names of two or more persons nominated to fill each such vacancy.

**Sec. 9. Oath of Office.** Each supreme court justice, 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. 10. Approval or Rejection.**

(1) Each supreme court justice shall be subject to approval or rejection on a separate non-partisan statewide ballot at the first general election held more than three years after his appointment, and if approved by a majority of the electors voting on his candidacy, he shall be retained in office. He shall thereafter be subject to approval or rejection in a like manner every tenth year. If a majority of those voting on

his candidacy reject his candidacy, he shall not for a period of four years thereafter be appointed to fill any vacancy in the supreme or superior courts of the State.

(2) Each justice seeking to succeed himself to office shall file with the Secretary of State a declaration of such candidacy not less than ninety days before the date fixed for the general election at which approval or rejection is requisite. The Secretary of State shall promptly certify such candidacy to the election officials of the State, who shall prepare, and have available at the polls, a separate statewide ballot upon which there shall be stated the proposition: "Shall ..... be retained as justice of the supreme court for ten years?", with proper provision for the marking of such propositions as "yes" and "no". The ballots shall be counted, returned, canvassed and certified in the manner provided by law for elective offices.

**Sec. 11. Incapacity.** Whenever the Judicial Council certifies to the Governor that a supreme court justice appears to be so incapacitated as substantially to prevent him from performing his judicial duties, the Governor shall appoint a board of three persons to inquire into the circumstances, and may on the board's recommendation retire the justice after hearing. Notice of the hearing shall be given to the justice in writing at least thirty days prior thereto.

**Sec. 12. Impeachment.** A supreme court justice is subject to impeachment by the Legislature for malfeasance or misfeasance in the performance of his official duties. Impeachment shall originate in the Senate and must be approved by a two-thirds vote of its members. The motion for impeachment shall list fully the basis for the proceeding. Trial on impeachment shall be conducted by the House of Representatives. A supreme court justice designated by the court shall preside at the trial. Concurrence of two-thirds of the members of the House is required for a judgment of impeachment. The judgment may not extend beyond removal from office, but shall not prevent proceedings in the courts on the same or related charges.

**Sec. 13. Restrictions.** A supreme court justice while holding office may not practice law, 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. Any supreme court justice filing for another elective public office forfeits his judicial position.

**Sec. 14. Compensation.**

(1) The chief justice shall receive \$23,500.00 annually, and each associate justice shall receive \$22,500.00 annually as compensation, payable monthly in twelve equal installments. Compensation of the chief justice or of an associate justice shall not be diminished during his term of office, unless by general law applying to all salaried officers of the State.

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

**Sec. 15. Administrative Director.** The chief justice of the supreme court shall, with the approval of the supreme court, appoint an administrative director to serve at the pleasure of the chief justice and to supervise the administrative operations of the judicial system.

**Article II. Superior Court**

**Sec. 16. Superior Court.** There shall be one superior court for the State. The court shall consist of four districts which shall be bounded as follows:

**First District:** the area within election districts numbered one to six, both inclusive, as said districts are described in Article XIV of the State Constitution or the effective date of this Act;

**Second District:** the area within election districts numbered twenty-one to

twenty-four, both inclusive, as said districts are described in Article XIV of the State Constitution on the effective date of this Act;

**Third District:** the area within election districts numbered seven to fifteen, both inclusive, as said districts are described in Article XIV of the State Constitution on the effective date of this Act; and

**Fourth District:** the area within election districts numbered sixteen to twenty, both inclusive, as said districts are described in Article XIV of the State Constitution on the effective date of this Act.

**Sec. 17. Jurisdiction and Venue.**

(1) (a) The superior court is the trial court of general jurisdiction, with original jurisdiction in all civil and criminal matters, specifically including, but not limited to probate and guardianship of minors and incompetents. The superior court and its judges may issue injunctions, writs of review, mandamus, prohibition, habeas corpus and all other writs necessary or proper to the complete exercise of its jurisdiction. A writ of habeas corpus may be made returnable before any judge of the superior court. The superior court has jurisdiction in all matters appealed to it from a subordinate court, or administrative agency when such appeal is provided by law. All such appeals shall be a matter of right, except no appeal shall be taken in any criminal case after a plea of guilty or by the State, except to test the sufficiency of an indictment or information. All hearings on appeal from any final order or judgment of a subordinate court or administrative agency shall be on the record unless the superior court, in its discretion, shall grant a trial de novo, in whole or in part.

(b) In case of an actual controversy

within the State, the superior court, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such. Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

(2) The jurisdiction of the superior court shall extend over the whole of the State. All actions in ejectment or for the recovery of the possession of, quieting title to, for the partition of, or the enforcement of liens upon, real property shall be commenced in the judicial district in which the real property, or any part thereof affected by such action or actions, is situated.

(3) The court in which the action is pending may 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 for any of the following reasons:

First: When there is reason to believe that an impartial trial cannot be had therein;

Second: When the convenience of witnesses and the ends of justice would be promoted by the change;

Third: When for any cause the judge is disqualified from acting; but in such event, if the judge of another judicial district is assigned to try the action, no change of place of trial need be made;

Fourth: If the court finds 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. 18. Courts of Record: General Powers; Sessions.** The superior court shall always be open, except on judicial holidays as determined by rule of the supreme court. Injunctions, writs of pro-

hibition, mandamus and habeas corpus may be issued and served on holidays and non-judicial days. The superior court is a court of record and is vested with all power and authority necessary to carry into complete execution all its judgments, decrees and determinations in all matters within its jurisdiction according to the Constitution, the laws of the State and the common law. The superior court shall hold regular sessions in each district at such times and at such place or places therein as may be designated by rule or order of the supreme court.

**Sec. 19. Effect of Adjournment.** Adjournments from day to day, or from time to time, are to be construed as recesses in the session, and shall not prevent the court from sitting at any time.

**Sec. 20. Seal of Court.** The seal of the superior court shall be a vignette of the official flag of Alaska with the words "Seal of the Superior Court of the State of Alaska", and a designation of the district thereof, surrounding the vignette.

**Sec. 21. Process.** Process of the superior court shall be in the name of the "State of Alaska", be signed by the clerk of the court or his deputy, 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.

**Sec. 22. Qualifications of Judges.** A judge of the superior court shall be a citizen of the United States and of the State, a resident of Alaska for three years immediately preceding his appointment, have been engaged for not less than five years immediately preceding his appointment in the active practice of law, and at the time of appointment be licensed to practice law in Alaska. The active practice of law shall be as defined for supreme court justices.

**Sec. 23. Vacancies.**

(1) **Initial Vacancies.** The Governor shall initially fill the offices of superior court judges within forty-five days after receiving nominations from the Judicial Council by appointing one

of two or more persons nominated by the Council for each position.

(2) **Vacancies.** The Governor shall fill any vacancy in the offices of superior court judges within forty-five days after receiving nominations from the Judicial Council by appointing one of two or more persons nominated by the Council for each vacant position.

The office of a superior court judge becomes vacant ninety days after the election at which he is rejected by a majority of those voting on the question, or for which he failed to file his declaration of candidacy to succeed himself, and his successor may be appointed during this period, such appointment to become effective upon the vacancy occurring. A vacancy in said offices may also occur by reason of the death, retirement, resignation, forfeiture or removal from office of any judge. In the event of any vacancy other than an initial vacancy, or immediately upon certification of rejection following an election, or immediately upon failure of a judge to file declaration of candidacy, the Judicial Council shall meet within the thirty days after any of the said events occur and submit to the Governor the names of two or more persons nominated to fill each such vacancy.

**Sec. 24. Oath of Office.** Each superior court judge, 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. 25. Number of Judges.**

(1) The superior court shall consist of eight judges two of whom shall be judges in the first judicial district, one of whom shall be judge in the second judicial district, three of whom shall be judges in the third judicial district, and two of whom shall be judges in the fourth judicial district. At the time of submitting the names of any nominees to the Governor to fill any vacancy on the superior court bench, the Judicial Council shall also designate the district in which the appointee is to first reside and serve.

(2) A presiding judge shall be

designated for each district by the chief justice of the supreme court. The presiding judge shall in addition to his regular judicial duties: (a) assign the cases pending to the judges made available within the district, (b) supervise the judges and their court personnel in the carrying out of their official duties within the district, and (c) expedite and keep current the business of the court within the district.

(3) The chief justice may assign a judge and his court personnel for temporary duty from time to time not to exceed ninety days annually anywhere in Alaska except to permit completion of hearings in progress, providing however, a judge may be so temporarily assigned for longer and additional periods with his consent.

**Sec. 26. Approval or Rejection.**

(1) Each superior court judge shall be subject to approval or rejection on a separate non-partisan ballot at the first general election held more than three years after his appointment, and if approved by a majority of the electors voting on his candidacy he shall be retained in office. He shall thereafter be subject to approval or rejection in a like manner every sixth year. If a majority of those voting on his candidacy reject his candidacy, he shall not for a period of four years thereafter be appointed to fill any vacancy in the supreme or superior courts of the State.

(2) Each judge seeking to succeed himself to office shall file with the Secretary of State a declaration of such candidacy not less than ninety days before the date fixed for the general election at which approval or rejection is requisite. The judge shall seek approval in the judicial district to which he was originally appointed, except in case of assignments and transfers with the judge's consent, in which case he shall seek approval in the district where he has served the major portion of his term, or where he last stood for election. The Secretary of State shall promptly certify such candidacy to the election officials of the State, who shall prepare, and have available at the polls, a separate judicial district-wide ballot upon which there shall be stated the proposi-

tion: "Shall ..... be retained as judge of the superior court for six years?", with proper provision for the marking of such proposition as "yes" or "no". The ballots shall be counted, returned, canvassed and certified in the manner provided by law for elective officers.

**Sec. 27. Incapacity.** Whenever a judge of the superior court appears to be so incapacitated as substantially to prevent him from performing his judicial duties, the Judicial Council shall recommend to the supreme court that the judge be placed under early retirement. After notice and hearing, the supreme court by majority vote of its members may retire the judge. Notice of the hearing shall be given to the judge in writing at least thirty days prior thereto.

**Sec. 28. Impeachment.** A superior court judge is subject to impeachment by the Legislature for malfeasance or misfeasance in the performance of his official duties. Impeachment shall originate in the Senate and must be approved by two-thirds vote of its members. The motion for impeachment shall list fully the basis for the proceeding. Trial on impeachment shall be conducted by the House of Representatives. A supreme court justice designated by the court shall preside at the trial. Concurrence of two-thirds of the members of the House is required for a judgment of impeachment. The judgment may not extend beyond removal from office, but shall not prevent proceedings in the courts on the same or related charges.

**Sec. 29. Restrictions.** A superior court judge while holding office may not practice law, 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. Any superior court judge filing for another elective public office forfeits his judicial position.

**Sec. 30. Compensation.**

(1) Each superior judge shall receive \$19,000.00 annually, as compensation, payable monthly in twelve equal installments. The compensation of a judge shall not be diminished during his term of office, unless by general law

applying to all salaried officers of the State.

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

**Article III. Organization**

**Sec. 31. Commencement and Transfer of Causes.**

(1) The State courts 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 3rd day of January, 1962. Provided, however, that causes may be commenced, filed and determined in the State courts in each judicial district at the time of the appointment of one or more judges for such district.

(2) The jurisdiction of the courts of the State in this Act provided shall be exclusive from and after the 3rd day of January, 1962 but prior to that date shall be non-exclusive, and nothing in this Act shall diminish or deprive the District Court of the State of Alaska or the Court of Appeals or the Supreme Court of the United States of jurisdiction as provided by Public Law 508, 85th Congress, and other laws applicable thereto.

**Sec. 32. Declaration of Intent and Method of Transition.** It is the intent of the Legislature by the passage of this Act to provide for the organization of the State courts in an orderly manner so that the same will be completed on or before January 3, 1962 and so that during the intervening period advantage may be taken of the district and appellate structure referred to in Public Law 508, 85th Congress. To effect this intention the State 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 recom-

mendations with regard to the facilities needed for the establishment of the supreme and superior 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 supreme and superior court system and an estimate of the capital outlay required for physical facilities such as courtrooms, furnishings and libraries; and such additional information with regard to the administration of justice through the supreme and superior court system as may be required to fully inform the Legislature upon the subject.

(2) Upon the completion of the studies and reports provided in subdivision (1) hereof, copies shall be forthwith transmitted to the Governor and to the Legislature. Thereafter the Judicial Council shall meet and submit to the Governor the names of the persons nominated as the first justices of the supreme court, but in no event earlier than 30 days after submission of said reports and studies to the Legislature, and if the Legislature is not in session then not earlier than 30 days after the Legislature convenes.

(3) Upon the appointment of the first supreme court justices, the supreme court shall, as soon as may be practical, consider the reports and studies of the Judicial Council and thereafter make and promulgate such rules governing the administration of courts and the practice and procedure in civil and criminal cases as the court may deem appropriate. When the court has adopted such rules governing causes and pro-

cedure of the supreme and superior courts, the chief justice shall so advise the Judicial Council and within thirty (30) days thereafter the Judicial Council shall meet and submit to the Governor the names of the persons nominated for some or all of the superior court judges. The Judicial Council may submit the names of all persons nominated as superior court judges for all districts at this time or may submit the names of persons nominated in less than all of the judicial districts or less than all judges provided for in a district in such manner as will provide a gradual series of appointments consistent with the availability of physical facilities and court personnel.

(4) Notwithstanding the provisions of subsections (1), (2) and (3) of this section, in the event that either: a court of competent jurisdiction, by final judgment, declares that the District Court of the State of Alaska lacks jurisdiction to determine causes arising under the laws of the State, notwithstanding the provisions of Public Law 508, 85th Congress; or the President of the United States, by executive order, terminates the jurisdiction of the District Court of the State of Alaska, the Judicial Council shall forthwith meet and submit to the Governor the names of the persons nominated as justices or judges of all of the supreme and one or more or all superior courts of the State and in any event shall submit all of said names prior to January 3, 1962.

**Sec. 33. 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. 34. Effective Date.** This Act shall take effect upon its passage and approval or upon becoming law without such approval.

Approved March 19, 1959

## CHAPTER 51

### AN ACT

**Amending Section 56-5-10 ACLA 1949 as amended by Chap. 22 SLA 1959, by providing that a wife may acquire a residence or domicile separate from that of her husband; that residence of the husband shall inure to her benefit; that persons**