

1 IN THE HOUSE

BY MESSRS. HILLSTRAND AND TAYLOR

2

HOUSE BILL NO. 212

3

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4

TWENTY-THIRD SESSION

5

A BILL

6 For an Act entitled: "An Act to amend Section 16-1-70, ACLA

7 1949, pertaining to proceedings before

8 municipal magistrates."

9 BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

10 Section 1. Sec. 16-1-70, Alaska Compiled Laws Annotated,
11 1949, is hereby amended to read as follows:

12 Sec. 16-1-70. JURISDICTION AND PROCEEDINGS: COSTS:

13 JUDGMENT AND ENFORCEMENT OR REVIEW OF SAME. The municipal
14 magistrate shall have jurisdiction of all actions for viola-
15 tion of municipal ordinances, except that where such violation
16 N also constitutes a violation of Territorial law over which
17 E the United States Commissioner as ex officio justice of the
18 W peace, has jurisdiction and upon the trial of which in the
19 justice's court the defendant would be entitled to a jury,
20 M the municipal magistrate shall, upon receipt of a written
21 .. request filed by the defendant at any time prior to the com-
22 T mencement of the trial of such violation in the municipal
23 T magistrate's court, transmit the record of such case to the
24 E justice's court for the precinct having jurisdiction over
25 R the place where the violation was committed, for trial by a
26 jury.

27 N If a trial by jury be demanded in a municipal magis-
28 E .. trate's court, the municipal magistrate shall make an order
29 W in writing accordingly. Thereafter the municipal magistrate

1 N shall publicly draw from a box, containing at the time of
2 E the drawing the names of at least four-fifths (4/5) of all
3 W persons resident within the municipality who voted in the
4 municipality at the last preceding general municipal elec-
5 tion, and who, to the knowledge of the magistrate are still
6 A residents of such municipality and are qualified by law for
7 T jury service. For the drawing of any jury the names of
8 T such persons shall be placed in the jury box by the muni-
9 cipal magistrate in the presence of the party or their at-
10 torneys and the cards or pieces of paper upon which the
11 names of the jurors are written shall be thoroughly mixed
12 so as to insure a fair and impartial drawing. The magis-
13 trate may, however, by order made at the time, reject any
14 N or all of the names secured in any drawing whose attendance
15 E in his judgment cannot be obtained within a reasonable time
16 W or whose attendance may involve a large and unnecessary
17 expense; and the magistrate may thereupon cause other names
18 M to be drawn until a sufficient number of available jurors
19 A are secured. The magistrate may, at the first drawing, or
20 T any subsequent drawing made to complete the panel, draw
21 T from the box for service upon the jury about to be empaneled,
22 E or then being empaneled, the names of a sufficient number of
23 R prospective jurors to insure, in his judgment, the speedy
24 empaneling of the jury, taking into consideration probable
25 challenges both peremptory and for cause; but the jurors so
26 drawn in excess of the number of twelve for the original
27 N panel or in excess of any number required to complete the
28 E panel, shall, if and as they appear, be examined for service
29 W upon such jury in the order in which they have been drawn,

1 N But the empanelling of the jury shall not be delayed by the
2 E failure of any juror summoned to appear at the appointed
3 W time. Any juror so summoned and appearing shall be entitled
4 to pay as a juror whether called on the jury or not.

5 M Jurors for the trials of causes in the magistrate's
6 A court shall be examined and challenged for cause and peremp-
7 T tory challenges may be exercised, so far as may be possible,
8 T in the same manner as in the trials in the District Court;
9 E provided, however, that in magistrate's court each party
10 R shall be entitled to only three peremptory challenges.

11 After a sufficient number of names has been drawn, the
12 N magistrate shall make an order requiring the jurors to ap-
13 E pear before him forthwith, or at the time to which the trial
14 W may be postponed, and deliver the same to the Chief of Police
15 or any police officer of the municipality, or other person
16 M specially appointed for service.

17 A The officer must serve the order by giving notice to
18 T each of the persons selected of the time and place he or she
19 T is required to appear, and for what purpose, and return the
20 E same according to the direction therein, with the names of
21 R the persons summoned, verified by his or her own certificate.

22 Every person acting as a juror in a magistrate's court
23 N must possess the qualifications prescribed for jurors in the
24 E district court, and must also be an inhabitant of the munici-
25 W pality in which the court is holden at the time he is
26 summoned. [AND APPEALS]

27 Appeal shall lie from the [HIS] judgments of the munici-
28 pal magistrate to the district court in the same manner as
29 appeals from the judgments of a justice of the peace, except

1 that the amount of bail set by the municipal magistrate
2 upon such appeal shall not exceed the sum of \$500.00, or
3 three times the amount of the fine imposed, whichever is less.

4 The rules of proceeding before a municipal magistrate shall
5 be as near as practicable the same as before a justice of
6 the peace, unless otherwise prescribed by ordinance enacted
7 by the council. The council may also by ordinance prescribe
8 the costs to be taxed in proceedings before the municipal
9 magistrate.

10 A judgment in the court of a Municipal Magistrate shall
11 be enforced in the same manner as provided by law for the
12 enforcement of judgments in the court of a justice of the
13 Peace. Executions shall be addressed to the Chief of Police
14 or any police officer of the city and the levy thereof, as
15 well as all other proceedings thereon, shall be the same
16 as in the court of a Justice of the Peace.

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