

1 IN THE SENATE

SENATORS McNEALY, MOODY, COOPER,  
McNABB, GILBERT and STEWART  
2 SENATE BILL NO. 7

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Supreme and Superior  
7 Courts of the State of Alaska; providing  
8 for the promulgation of rules of civil and  
9 criminal procedure within the Courts of the  
10 State of Alaska; and establishing certain  
11 effective dates."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

13 ARTICLE I. SUPREME COURT

14 Section 1. Jurisdiction

15 The supreme court has final appellate jurisdiction in all  
16 actions and proceedings. The supreme court may issue mandatory  
17 injunctions, writs of review, prohibition, habeas corpus, and  
18 all other writs necessary and proper to the complete exercise of  
19 its final appellate and revisory jurisdiction. Each of the  
20 justices may issue writs of habeas corpus, upon petition by or on  
21 behalf of any person held in actual custody and may make such  
22 writs returnable before the justice himself or before the supreme  
23 court, or before any judge of the superior court of the State.  
24 Appeals to the supreme court shall be a matter of right, except  
25 that the State shall have no right of appeal in criminal cases.

26 Section 2. Court of Record - Composition - General Powers

27 The supreme court is a court of record, consists of three  
28 justices including the chief justice, and is vested with all power  
29 and authority necessary to carry into complete execution all its

1. judgments, decrees and determinations in all matters within its  
2. jurisdiction, according to the rules and principles of common  
3. law, and the Constitution and laws of this State.

4. Section 3. Sessions of Court

5. The supreme court shall always be open for the transaction  
6. of business except on judicial holidays, determined by rule of  
7. the court. The supreme court shall hold regular terms at the  
8. State capital not less than semi-annually on dates fixed by court  
9. rule. The supreme court shall also hold such terms in other  
10. cities of the State as are from time to time fixed by court rule.

11. Section 4. Effect of Adjournment

12. Adjournments from day to day, or from time to time, are to  
13. be construed as recesses in the term, and shall not prevent the  
14. court from sitting at any time.

15. Section 5. Style of Process

16. Process of the supreme court shall be in the name of the  
17. "State of Alaska", be signed by the clerk of the court, be dated  
18. when issued, sealed with the seal of the court, and made return-  
19. able according to rule prescribed by the court, provided, however,  
20. such rule may, for good cause shown, be modified by the court.

21. Section 6. Seal of Court

22. The seal of the supreme court shall be the vignette of the  
23. official flag of Alaska with the words "Seal of the Supreme Court  
24. of the State of Alaska", surrounding the vignette.

25. Section 7. Qualifications of Justices

26. A justice of the supreme court shall be a citizen of the  
27. United States, a bona fide resident of Alaska for three years  
28. preceeding his appointment, and have had eight years in the active  
29. practice of law in Alaska.

1.           Section 8. Nomination and Appointment

2.           The Governor shall fill any vacancy in the office of supreme  
3. court justice within thirty days after receiving nominations from  
4. the Judicial Council, by appointing one of two or more persons  
5. nominated by the Council.

6.           Section 9. Oath of Office

7.           Each supreme court justice, upon entering office, shall take  
8. and subscribe to an oath of office.

9.           Section 10. Approval or Rejection

10.          (a) Each supreme court justice shall be subject to approval or  
11. rejection on a non-partisan ballot at the first general election  
12. held more than three years after his appointment, and thereafter  
13. also subject to approval or rejection in a like manner every tenth  
14. year.

15.          (b) Each justice seeking to succeed himself to office shall  
16. file with the Secretary of State a declaration of such candidacy  
17. not less than ninety days before the date fixed for general election  
18. at which approval or rejection is requisite. The Secretary of  
19. State shall promptly certify such candidacy to the election officials  
20. of the State who shall prepare, and have available at the polls,  
21. a separate ballot upon which there shall be stated the proposition  
22. "Shall \_\_\_\_\_ be retained as justice of the  
23. supreme court for ten years," with proper provision for the marking  
24. of such propositions as "yes" or "no". The ballots shall be  
25. counted, returned, canvassed and certified in the manner provided  
26. by law for elective offices. Upon approval by the electorate,  
27. certified to by the election official and the Secretary of State  
28. to the Governor, there shall again be issued by the Governor to  
29. justice a certificate of office.

2. The office of supreme court justice becomes vacant ninety  
3. days after the election at which he is rejected by a majority of  
4. those voting on the question, or for which he fails to file his  
5. declaration of candidacy to succeed himself. A vacancy in office  
6. may also occur by reason of the death, retirement, resignation,  
7. forfeiture or removal from office of any justice. In the event  
8. of a vacancy, the Judicial Council shall meet within thirty days  
9. and submit to the Governor the names of two or more persons to  
10. fill such vacancy.

11. Section 12. Incapacity

12. Whenever the Judicial Council certifies to the Governor that  
13. a supreme court justice appears to be so incapacitated as sub-  
14. stantially to prevent him from performing his judicial duties, the  
15. Governor shall appoint a board of three persons to inquire into  
16. the circumstances, and may on the board's recommendation retire  
17. the justice, provided, however, the justice shall be given a  
18. written notice by and hearing before the board.

19. Section 13. Impeachment

20. A supreme court justice is subject to impeachment by the  
21. Legislature for malfeasance or misfeasance in the performance of  
22. his official duties. Impeachment shall originate in the Senate  
23. and must be approved by a two-thirds vote of its members. The  
24. motion for impeachment shall list fully the basis for the proceed-  
25. ings. Trial on impeachment shall be conducted by the House of  
26. Representatives. A supreme court justice designated by the court  
27. shall preside at the trial and a concurrence of two-thirds of the  
28. members of the House shall be required for a judgment of impeach-  
29. ment. The judgment may not extend beyond the removal from office,

1. but shall not prevent proceedings in the courts on the same or  
2. related charges.

3.       Section 14. Restrictions

4.       A supreme court justice while holding office may not practice  
5. law, hold office in a political party, or hold any other office  
6. or position of profit under the United States, the State, or any  
7. of its political subdivisions. Any supreme court justice filing  
8. for another elective public office forfeits his judicial position.

9.       Section 15. Compensation

10.       (a) The chief justice shall receive \$27,500.00 annually, and  
11. each justice shall receive \$25,000.00 annually as compensation,  
12. payable monthly in twelve equal installments. Compensation of  
13. the chief justice or of a justice shall not be diminished during  
14. the term of office, unless by general law applying to all salaried  
15. officers of the State.

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

21.                               ARTICLE II. SUPERIOR COURT

22.       Section 16. Superior Court

23.       There shall be one superior court for the State. The court  
24. shall consist of four districts, which shall be bounded as follows:

25.       First District:       the area within election districts  
26.                               numbered one to six, both inclusive;

27.       Second District:     the area within election districts  
28.                               numbered sixteen, and twenty to  
29.                               twenty-four, both inclusive;

1. Third District: the area within election districts  
2. numbered seven to fifteen, both  
3. inclusive; and

4. Fourth District: the area within election districts  
5. numbered seventeen to twenty-one,  
6. both inclusive.

7. Section 17. Jurisdiction and Venue

8. (a) The superior court is the trial court of general juris-  
9. diction, with original jurisdiction in all civil and criminal  
10. matters, specifically including, but not limited to admiralty,  
11. probate, and guardianship of minors and incompetents. The superior  
12. court may issue mandatory injunctions, writs of review, prohibition,  
13. habeas corpus and all other writs necessary and proper to the  
14. complete exercise of its jurisdiction. A writ of habeas corpus  
15. may be made returnable before any judge of the superior court.  
16. The superior court has jurisdiction in all matters appealed to it  
17. which have been determined before a court commissioner or a  
18. municipal or other inferior court or administrative body or  
19. tribunal. All such appeals shall be as a matter of right, except  
20. no appeal shall be taken in any criminal case after a plea of  
21. guilty or by the State. All hearings on appeal from any final  
22. order or judgment of a court commissioner, municipal or other  
23. inferior court, administrative body or tribunal shall be on the  
24. record kept unless the superior court, in its discretion, shall  
25. grant a trial de novo.

26. (b) The jurisdiction of the superior court shall extend over  
27. the whole of the State. All actions in ejectment or for the  
28. recovery of the possession of, quieting title to, for the partition  
29. of or the enforcement of liens upon real estate shall be commenced

1. in the judicial district in which the real estate, or any part  
2. thereof, affected by the action, is situated.

3. (c) The court in which the action is pending may, on motion,  
4. change the place of trial in any action, civil or criminal, from  
5. one place to another place in the same judicial district or to a  
6. designated place in another judicial district in either of the  
7. following cases:

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

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

12. Third: When for any cause the judge is disqualified from  
13. acting; but in such event, if the judge of another judicial dis-  
14. trict will appear and try the action, no change of place of trial  
15. must be made;

16. Fourth: When considering available means of travel, it  
17. appears that the defendant will be put to unnecessary expense and  
18. inconvenience if summoned to defend in the place or judicial  
19. district in which the action has been commenced in a place or  
20. judicial district remote from the residence of the defendant for  
21. the purpose of causing unnecessary expense or inconvenience, in  
22. which event the court may also assess the costs, incidental there-  
23. to, against the plaintiff.

24. Section 18. Courts of Record - General Powers - Sessions

25. The superior court is a court of record and shall be always  
26. open, except on judicial holidays, determined by rules of the  
27. supreme court. The superior court is vested with all powers and  
28. authority necessary to carry into complete execution all its  
29. judgments, decrees and determinations in all matters within its

1. jurisdiction according to the State Constitution, the laws of this  
2. State and the common law. The superior court shall hold regular  
3. terms in each district at such times and at such place or places  
4. therein, as may be designated by rule or order of the supreme court.

5.       Section 19. Effect of Adjournment

6.       Adjournments from day to day, or from time to time, are to  
7. be construed as recesses in the terms, and shall not prevent the  
8. court from sitting at any time.

9.       Section 20. Seal of Court

10.       The seal of the superior court shall be a vignette of the  
11. official flag of Alaska with the words "Seal of the Superior Court  
12. of the State of Alaska", and a designation of the district thereof,  
13. surrounding the vignette.

14.       Section 21. Process

15.       Process of the superior court shall be in the name of the  
16. "State of Alaska", be signed by the clerk of the court in the  
17. judicial district where the process is issued, be dated when  
18. issued, sealed with the seal of the court, and made returnable  
19. according to rule prescribed by the supreme court; provided, how-  
20. ever, such rule may, for good cause shown, be modified by order  
21. of a supreme court justice or a superior court justice. Process  
22. shall be directed to the officer or person designed by law or  
23. order for the service of the process, and by him executed accord-  
24. ing to law, supreme court rule or an order of the supreme or  
25. superior court.

26.       Section 22. Qualifications of Judges

27.       A judge of the superior court shall be a citizen of the  
28. United States, a bona fide resident of the State of Alaska for  
29. three years preceding his appointment, and have had five years

1 in the active practice of law in Alaska.

2 Section 23. Nomination and Appointment

3 The Governor shall fill any vacancy in the office of  
4 superior court judge within thirty days after receiving nomina-  
5 tions from the Judicial Council by appointing one of the two or  
6 more persons first nominated by the Council.

7 Section 24. Oath of Office

8 Each superior court judge, upon entering office, shall take  
9 and subscribe to an oath of office required of all public officers  
10 under the Constitution.

11 Section 25. Number of Judges

12 (a) The superior court shall consist of eight judges, two  
13 of whom shall be resident judges in the first judicial district,  
14 one of whom shall be resident judge in the second judicial dis-  
15 trict, three of whom shall be resident judges in the third  
16 judicial district, and two of whom shall be resident judges in  
17 the fourth judicial district. At the time of submitting the  
18 names of any nominees to the Governor to fill any vacancy on the  
19 superior court bench, the Judicial Council shall also designate  
20 the district in which the appointee is to serve.

21 (b) A presiding judge shall be designated for each district  
22 by the chief justice of the supreme court. The presiding judge  
23 shall in addition to his regular judicial duties: (1) assign the  
24 cases pending to the judges made available within the district,  
25 (2) supervise the commissioners in the carrying out of their  
26 official duties within the district, and (3) expedite and keep  
27 current the business of the court within the district.

28 (c) The chief justice may assign a judge for temporary duty  
29 not to exceed ninety days anywhere in Alaska.

1. Section 26. Approval or Rejection

2. (a) Each superior court judge shall be subject to approval or  
3. rejection on a non-partisan ballot at the first general election  
4. held more than three years after his appointment, and if approved  
5. he shall thereafter be subject to approval or rejection in a like  
6. manner every sixth year.

7. (b) Each judge seeking to succeed himself to office shall  
8. file with the Secretary of State a declaration of such candidacy  
9. not less than ninety days before the date fixed for general  
10. election at which approval or rejection is requisite. The judge  
11. shall seek approval in the judicial district to which he was  
12. originally assigned. The Secretary of State shall promptly certify  
13. such candidacy to the election officials of the State who shall  
14. prepare, and have available at the polls, a separate ballot upon  
15. which there shall be stated the proposition: "Shall \_\_\_\_\_  
16. be retained as judge of the superior court for six years," with  
17. proper provision for the marking of such propositions as "yes" or  
18. "no". The ballots shall be counted, returned, canvassed and  
19. certified in the manner provided by law for elective offices.  
20. Upon approval by the electorate, certified to by the election  
21. officials and the Secretary of State to the Governor, there shall  
22. be issued by the Governor to the judge a certificate of office.

23. Section 27. Vacancy

24. The office of a superior court judge becomes vacant ninety  
25. days after the election at which he is rejected by a majority of  
26. those voting on the question, or for which he fails to file his  
27. declaration of candidacy to succeed himself. A vacancy in office  
28. may also occur by reason of the death, retirement, resignation,  
29. forfeiture or removal from office of any judge. In the event of

1. a vacancy, the Judicial Council shall meet within thirty days and  
2. submit to the Governor the names of two or more persons to fill  
3. such vacancy.

4. Section 28. Incapacity

5. Whenever a judge of the superior court appears to be so in-  
6. capacitated as substantially to prevent him from performing his  
7. judicial duties, the Judicial Council shall recommend to the supreme  
8. court that the judge be placed under early retirement. After  
9. notice and hearing, the supreme court by majority vote of its  
10. members may retire the judge.

11. Section 29. Impeachment

12. A superior court judge is subject to impeachment by the  
13. Legislature for malfeasance or misfeasance in the performance of  
14. his official duties. Impeachment shall originate in the Senate  
15. and must be approved by two-thirds vote of its members. The  
16. motion for impeachment shall list fully the basis for the proceed-  
17. ings. Trial on impeachment shall be conducted by the House of  
18. Representatives. A superior court judge designated by the court  
19. shall preside at the trial. Concurrence of two-thirds of the  
20. members of the House shall be required for a judgment of impeach-  
21. ment. The judgment may not extend beyond the removal from office,  
22. but shall not prevent proceedings in the courts on the same or  
23. related charges.

24. Section 30. Restrictions

25. A superior court judge while holding office may not practice  
26. law, hold office in a political party, or hold any other office or  
27. position of profit under the United States, the State, or any of  
28. its political subdivisions. Any superior court judge filing for  
29. another elective public office forfeits his judicial position.

1. Section 31. Compensation

2. (a) Each superior court judge shall receive \$22,500.00  
3. annually, as compensation, payable monthly in twelve equal install-  
4. ments. The compensation of a judge shall not be diminished during  
5. the term of office, unless by general law applying to all salaried  
6. officers of the State.

7. (b) No salary warrant shall be issued to any superior court  
8. judge until he has made and filed with the state officer designated  
9. to issue salary warrants an affidavit that no matter referred to  
10. the judge for decision has been uncompleted or undecided by him  
11. for more than six months.

12. Section 32. Administrative Assistance

13. The supreme and superior courts shall appoint, and at pleasure  
14. remove, clerks, bailiffs, reporters and such other administrative  
15. and clerical help as may be required. Such employees shall have  
16. such duties and shall receive such compensation as may be establish-  
17. ed by rule or order of the supreme court.

18. Section 33. Severability

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

22. Section 34. Effective Date

23. This Act shall be effective as follows:

24. (a) As to the vesting of jurisdiction and the commencement  
25. and trial of cases in the superior court, July 1, 1959;

26. (b) As to the vesting of jurisdiction and the commencement  
27. of the exercise of its functions by the supreme court, July 1, 1959;

28. (c) As to appointment of justices and judges, the making of  
29. rules, the employment of personnel, the hiring of equipment and

1. facilities and all other provisions of the Act, an emergency is  
2. declared to exist and this Act shall take effect immediately upon  
3. its passage and approval.

4. (d) If the President of the United States shall issue the  
5. Executive Order provided in Section 18, P.L. 85-508, 72 Stat. 339,  
6. prior to July 1, 1959, or if the District Court for the Territory  
7. of Alaska shall cease to function before that date for any reason,  
8. all provisions of this Act shall take effect immediately upon the  
9. issuance of such Executive Order.

10. (e) The District Court for the Territory of Alaska shall,  
11. without regard to the provisions of this Act, continue to function  
12. as heretofore as a temporary court of general jurisdiction of  
13. the State of Alaska until such time as that court shall terminate  
14. as provided in P.L. 85-508.

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