

1 IN THE SENATE

BY THE COMMITTEE ON
JUDICIARY

2 SENATE BILL NO.117

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the district magistrate
7 courts; providing for their jurisdiction and
8 venue, the appointment, qualification and
9 compensation of district magistrates and
10 deputy district magistrates; providing for
11 their functions, power and duties, for appeal
12 from judgments thereof; and providing for an
13 effective date."

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

15 ARTICLE I

16 DISTRICT MAGISTRATE COURTS

17 Section 1. ESTABLISHMENT OF DISTRICT MAGISTRATE COURTS.

18 There is hereby created and established in each of the four
19 judicial districts of the superior court of this state, a district
20 magistrate court for each such district.

21 Sec. 2. NUMBER OF MAGISTRATES.

22 (1) DISTRICT MAGISTRATES. Except as hereinafter pro-
23 vided, each of the district magistrate courts established in the
24 judicial districts shall have the number of district magistrates
25 set out below opposite the name of the judicial district over
26 which such court has jurisdiction:

- 27 First Judicial District 2
- 28 Second Judicial District. 1
- 29 Third Judicial District 4

1 Fourth Judicial District. 2

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

5 (2) DEPUTY MAGISTRATES. Except as hereinafter pro-
6 vided, each of the district magistrate courts established in the
7 judicial districts shall have the number of deputy magistrates set
8 out below opposite the name of the judicial district over which
9 such court has jurisdiction:

- 10 First Judicial District 10
- 11 Second Judicial District. 7
- 12 Third Judicial District 19
- 13 Fourth Judicial District. 17

14 The number of deputy magistrates within each judicial dis-
15 trict may be increased or decreased by rule of the supreme court.

16 Sec. 3. CIVIL JURISDICTION.

17 (1) The district magistrate court shall have jurisdic-
18 tion of civil cases and proceedings as follows:

19 First. For the recovery of money or damages only
20 when the amount claimed does not exceed three thousand
21 (\$3,000.00) dollars;

22 Second. For the recovery of specific personal
23 property, when the value of the property claimed and the
24 damages for the detention do not exceed three thousand
25 (\$3,000.00) dollars;

26 Third. For the recovery of any penalty or for-
27 feiture, whether given by statute or arising out of contract,
28 not exceeding three thousand (\$3,000.00) dollars;

29 Fourth. To give judgment without action upon the

1 confession of the defendant for any of the cases specified
2 in this section, except for a penalty or forfeiture imposed
3 by statute;

4 Fifth. For establishing the fact of death of any
5 person in the manner prescribed in Ch. 89, SLA 1953;

6 Sixth. For cases involving minors under the age
7 of eighteen years and arising under the provisions of Ch.
8 145, SLA 1957, as amended;

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

11 (2) Insofar as the civil jurisdiction of the district
12 magistrate courts and the superior court is the same, such juris-
13 diction is concurrent.

14 Sec. 4. SAME: ACTIONS NOT WITHIN JURISDICTION. The juris-
15 diction conferred by the last section does not extend however --

16 First. To an action in which the title to real property
17 shall come in question;

18 Second. To an action for false imprisonment, libel,
19 slander, malicious prosecution, criminal conversation, seduction
20 upon a promise to marry, or in actions of an equitable nature.

21 Sec. 5. CRIMINAL JURISDICTION.

22 (1) The district magistrate court shall have juris-
23 diction of the following crimes:

24 First. Larceny, where the punishment therefor may
25 be imprisonment for a period not to exceed one year or by fine

26 Second. Assault, or assault and battery, not
27 charged to have been committed with intent to commit a felony
28 or in the course of a riot, or with a dangerous weapon, or
29 upon a public officer in the discharge of his duties.

1 Third. Violations of municipal ordinances.

2 Fourth. Of any misdemeanor punishable by imprison-
3 ment for a period not to exceed one year or by fine, or by both.

4 (2) Insofar as the criminal jurisdiction of the district
5 magistrate courts and the superior court is the same, such juris-
6 diction is concurrent.

7 Sec. 6. JURISDICTION AND VENUE.

8 (1) The jurisdiction of the district magistrate court
9 shall extend over the whole of the judicial district.

10 (2) The court in which the action is pending may change
11 the place of trial in any action from one place to another place
12 in the same judicial district or to a designated place in another
13 judicial district for any of the following reasons:

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

16 Second. When the convenience of witnesses and the
17 ends of justice would be promoted by the change;

18 Third. When for any cause the judge is disquali-
19 fied from acting; but in such event, if the judge of another
20 judicial district is assigned to try the action, no change of
21 place of trial need be made;

22 Fourth. If the court finds that the defendant will
23 be put to unnecessary expense and inconvenience. Should the
24 court find that said expense and inconvenience was inten-
25 tionally caused, the court may assess costs against the
26 plaintiff.

27 Sec. 7. SESSIONS AND GENERAL POWERS OF DISTRICT MAGISTRATE
28 COURT.

29 (1) The district magistrate court shall always be open

1 for the transaction of business, except on judicial holidays as
2 determined by rule of the supreme court; provided, however, that
3 the court may at any time:

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

7 (b) Receive a verdict or discharge a jury,

8 (c) Issue writs of habeas corpus,

9 (d) Issue warrants of arrest and summons and
10 search warrants.

11 (2) The court shall hold regular sessions in its dis-
12 trict at such times and at such place or places therein as may
13 be designated by rule or order of the supreme court. The district
14 magistrate courts are vested with all power and authority neces-
15 sary to carry into complete execution all their judgments, decrees
16 and determination in all matters within their jurisdiction accord-
17 ing to the constitution, the laws of the state and the common law.

18 Sec. 8. FUNCTIONS, POWERS AND DUTIES OF DISTRICT MAGISTRATE
19 AND DEPUTY MAGISTRATE.

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

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

28 (b) Of a notary public and shall keep a memorandum
29 of all deeds and other instruments of writing acknowledged

1 before them and relating to the title to or transfer of
2 property within the judicial district, which memorandum shall
3 be subject to public inspection.

4 (c) To issue marriage licenses and to solemnize
5 marriages within their jurisdiction.

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

9 (e) To act as examining magistrates in preliminary
10 examinations with all attendant powers and duties relating
11 to such proceedings as provided by law and rule of the
12 supreme court.

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

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

18 (a) To perform the duties and exercise the
19 authority of coroner as such duties and authority are or
20 may hereafter be prescribed by law.

21 (b) To record births, deaths and marriage certi-
22 ficates presented to them for record in the manner prescribed
23 by law.

24 (3) Except as provided in section 20 as to the deputy
25 magistrate, the district magistrate and deputy magistrate shall
26 have all the powers, duties and functions as are now or may
27 hereafter be prescribed by law for judicial officers of the state,
28 including specifically all powers, duties, and functions conferred
29 by territorial or state law upon United States Commissioners as

1 ex-officio justices of the peace and upon municipal magistrates.

2 Sec. 9. EFFECT OF ADJOURNMENT. Adjournments from day to
3 day, or from time to time, are to be construed as recesses in the
4 session, and shall not prevent the court from sitting at any time.

5 Sec. 10. SEAL OF COURT. The seal of the district magistrate
6 court shall be a vignette of the official flag of Alaska with the
7 words "Seal of the District Magistrate Court of the State of
8 Alaska for the (number of district) Judicial District", surround-
9 ing the vignette.

10 Sec. 11. PROCESS. Process of the district magistrate court
11 shall be in the name of the "State of Alaska", be signed by the
12 district magistrate or deputy magistrate, be dated when issued,
13 sealed with the seal of the court, and made returnable according
14 to rule prescribed by the supreme court.

15 Sec. 12. QUALIFICATIONS OF MAGISTRATES.

16 (1) DISTRICT MAGISTRATE. A district magistrate shall
17 be a citizen of the United States and of the state, of legal age,
18 a resident of the state for at least 90 days immediately preced-
19 ing his appointment, and at the time of appointment be licensed
20 to practice law in Alaska. The supreme court may prescribe
21 additional qualifications.

22 (2) DEPUTY MAGISTRATES. A deputy magistrate shall be
23 a citizen of the United States and of the state, of legal age,
24 and a resident of the state for at least 90 days immediately
25 preceding his appointment. The supreme court may prescribe
26 additional qualifications.

27 Sec. 13. SELECTION AND TENURE OF MAGISTRATES. The presid-
28 ing judge of the superior court in each judicial district shall
29 appoint the district magistrates and deputy magistrates for the

1 district magistrate court for his judicial district. They shall
2 serve at the pleasure of such presiding judge. Vacancies shall
3 be filled in the same manner as appointment.

4 Sec. 14. OATH OF OFFICE. Each district magistrate and
5 deputy magistrate, upon entering office, shall take and subscribe
6 to an oath of office required of all officers under the constitu-
7 tion and such further oaths or affirmations as may be prescribed
8 by law.

9 Sec. 15. ASSIGNMENT OF MAGISTRATES. A district magistrate
10 and deputy magistrate shall hold sessions of the district magis-
11 trate court at such times and places as are assigned to them by
12 the presiding judge of the superior court of their district. The
13 presiding judge in any judicial district may assign any district
14 magistrate or deputy magistrate within his district to serve
15 temporarily in any other judicial district. Rules and procedures
16 for such temporary assignment shall be as prescribed by the
17 supreme court.

18 Sec. 16. INCAPACITY. Whenever a district magistrate or
19 deputy magistrate appears to be so incapacitated as substantially
20 to prevent him from performing his judicial duties, and is not
21 removed by the presiding judge of the superior court of his
22 district, the Judicial Council may recommend to the supreme court
23 that the district magistrate or deputy magistrate be placed under
24 early retirement. After notice and hearing, the supreme court
25 by majority vote of its members may retire the district magis-
26 trate or deputy magistrate. Notice of the hearing shall be given
27 to such magistrate in writing at least thirty days prior thereto.

28 Sec. 17. RESTRICTIONS.

29 (1) DISTRICT MAGISTRATE. A district magistrate, while

1 holding office, may not practice law, hold office in a political
2 party, or hold any other office or position of profit under the
3 United States, the state or its political subdivisions, except
4 that the district magistrate may be appointed deputy clerk of the
5 superior court. Any district magistrate filing for an elective
6 public office forfeits his judicial position.

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

15 Sec. 18. COMPENSATION.

16 (1) Each district magistrate shall receive annual
17 compensation to be determined by the supreme court, but in any
18 event not to exceed \$10,000.00. Such compensation shall be pay-
19 able monthly in twelve equal installments.

20 (2) Each deputy magistrate shall receive annual com-
21 pensation to be determined by the supreme court.

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

28 Sec. 19. ADDITIONAL COMPENSATION. Subject to rule of the
29 supreme court, a district magistrate or deputy magistrate shall

1 receive a per diem allowance and a transportation allowance com-
2 mensurate with that authorized state employees:

3 (1) Whenever he is temporarily assigned to another
4 judicial district;

5 (2) Whenever business of the court requires him to
6 travel away from the ordinary seat of the court to which he is
7 assigned.

8 Sec. 20. LIMITATIONS ON POWERS OF DEPUTY MAGISTRATE. The
9 powers of the deputy magistrate are limited and he shall only
10 preside in cases and proceedings as follows:

11 First. For the recovery of money or damages only
12 when the amount claimed does not exceed five hundred (\$500.00)
13 dollars;

14 Second. For the recovery of specific personal
15 property, when the value of the property claimed and the
16 damages for the detention do not exceed five hundred (\$500.00)
17 dollars;

18 Third. For the recovery of any penalty or for-
19 feiture, whether given by statute or arising out of contract,
20 not exceeding five hundred (\$500.00) dollars;

21 Fourth. To give judgment without action upon the
22 confession of the defendant for any of the cases specified
23 in this section, except for a penalty or forfeiture imposed
24 by statute.

25 Fifth. To act as examining magistrate in prelim-
26 inary examinations in criminal proceedings.

27 Sixth. To give judgment of conviction upon a plea
28 of guilty by the defendant in all criminal proceedings within
29 the jurisdiction of the district magistrate court.

1 Sec. 21. APPEAL.

2 (1) CIVIL. Any judgment of the district magistrate
3 court in a civil action may be appealed by either party to the
4 superior court when the sum in controversy is not less than fifty
5 (\$50.00) dollars, or for the recovery of personal property of the
6 value of not less than fifty (\$50.00) dollars exclusive of costs
7 in either case, except when the sum is given by confession or for
8 want of an answer and not otherwise.

9 (2) CRIMINAL. Any judgment of conviction given in the
10 district magistrate court in a criminal action may be appealed by
11 the defendant to the superior court, except when such judgment is
12 given on a plea of guilty. The state shall have no right of
13 appeal in criminal actions for which judgment is given in the
14 district magistrate courts, except to test the sufficiency of the
15 information.

16 (3) TIME FOR APPEAL. Appeals shall be taken within
17 thirty days from the date of entry of the judgment.

18 (4) FURTHER RULES. The supreme court shall prescribe
19 further rules for the procedure for appeals from district magis-
20 trate courts.

21 Sec. 22. FINES: DISPOSITION OF. Whenever pursuant to law,
22 any fees, fines, forfeitures, or penalties are levied and collected
23 by the district magistrate or deputy magistrate, the proceeds
24 thereof and all other monies collected shall be accounted and trans-
25 mitted to the administrative director of the judicial system for
26 deposit in the general fund of the state.

27 Sec. 23. BOND. Before entering upon his duties each district
28 magistrate and deputy magistrate shall execute and file with the
29 administrative director a surety bond in form and amount to be

1 determined by rule of the supreme court. Such bond shall be paid
2 for by the state.

3 ARTICLE II

4 ORGANIZATION

5 Sec. 24. COMMENCEMENT AND TRANSFER OF CAUSES.

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

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

25 Sec. 25. DECLARATION OF INTENT. It is the intent of the
26 Legislature by the passage of this Act to implement the organi-
27 zation of the state courts provided for in the Constitution of the
28 State of Alaska by establishing an inferior court as an integral
29 part of a unified judicial system. To this end, the district

1 magistrate courts as herein established shall constitute the
2 sole and exclusive inferior court system of the state. Their
3 jurisdiction is hereby declared to be supplementary to the ori-
4 ginal jurisdiction of the superior court, and to the extent
5 provided herein shall be concurrent therewith.

6 The Legislature recognizes that, because of the size and
7 scattered population of the state, with its remote and isolated
8 settlements, complexities within a unified court system necessarily
9 arise. Therefore, in order to avoid a duplication of inferior
10 court jurisdictions, and to provide prompt and efficient admin-
11 istration of justice, there is established in this Act a single
12 inferior court within each judicial district, but with each such
13 district magistrate court having as court officers district
14 magistrates with general trial power within the limits of the
15 court's jurisdiction and deputy magistrates of limited trial
16 power sufficient to meet the immediate requirements of justice
17 in the less populated areas of the state.

18 Sec. 26. METHOD OF TRANSITION. To effect the intention ex-
19 pressed in Sec. 25, the district magistrate courts shall be
20 organized in the following manner:

21 (1) The Judicial Council shall, in cooperation with
22 and through the facilities of the Legislative Council, institute
23 studies and make reports and recommendations with regard to the
24 facilities needed for the district magistrate courts of the state.
25 Such studies and reports shall include, but not be limited to,
26 necessary courtroom facilities and the location thereof; the
27 number and nature of court attaches, and personnel and the esti-
28 mated salary requirements of each position; recommended rules
29 governing practice and procedure in civil and criminal cases; an

1 estimated annual budget of the costs of operating the proposed
2 inferior court system and an estimate of the capital outlay re-
3 quired for physical facilities such as courtrooms, and furnishings
4 and such additional information with regard to the administration
5 of justice through the inferior court system as may be required
6 to fully inform the legislature upon the subject.

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

13 (3) Notwithstanding the provisions of subsections (1)
14 and (2) of this section, in the event that either: (a) a court of
15 competent jurisdiction, by final judgment, declares that the Dis-
16 trict Court of the State of Alaska lacks jurisdiction to determine
17 causes arising under the laws of the state, notwithstanding the
18 provisions of Public Law 508, 85th Congress; or (b) the President
19 of the United States, by executive order, terminates the juris-
20 diction of the District Court of the State of Alaska; and there-
21 after the supreme and superior courts of the state assume exclu-
22 sive state jurisdiction, the presiding judges of the superior
23 court shall forthwith appoint the necessary magistrates for the
24 district magistrate courts as provided herein and in any event
25 shall so appoint such necessary magistrates prior to January 3,
26 1962.

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

1 Sec. 28. EFFECTIVE DATE. This Act shall take effect imme-
2 diately upon its passage and approval or upon its becoming law
3 without such approval.
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