

1 IN THE SENATE

BY HOUSE JUDICIARY COMMITTEE

2 HOUSE COMMITTEE SUBSTITUTE FOR 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 judi-
19 cial 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 3
- 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 provided,
6 each of the district magistrate courts established in the judicial
7 districts shall have the number of deputy magistrates set out
8 below opposite the name of the judicial district over which such
9 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 district
15 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 (a) For the recovery of money or damages only
20 when the amount claimed exclusive of costs, interest and
21 attorneys fees does not exceed three thousand (\$3,000.00)
22 dollars;

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

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

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

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

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

10 (g) For proceedings under the "Village Incorpora-
11 tion Act of 1957" (Ch. 150, SLA 1957).

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

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

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

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

23 Sec. 5. CRIMINAL JURISDICTION.

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

26 (a) Of any misdemeanor unless herein otherwise
27 provided.

28 (b) Violations of municipal ordinances.

29 (2) Insofar as the criminal jurisdiction of the district

1 magistrate courts and the superior court is the same, such juris-
2 diction is concurrent.

3 Sec. 6. JURISDICTION AND VENUE.

4 (1) The criminal jurisdiction of the district magis-
5 trate court shall extend over the entire state; the civil juris-
6 diction of said court shall extend over the whole of the judicial
7 district.

8 (2) The court in which the action is pending shall
9 change the place of trial in any action from one place to another
10 place in the same judicial district or to a designated place in
11 another judicial district when the court finds any of the follow-
12 ing:

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

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

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

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

24 Sec. 7. SESSIONS AND GENERAL POWERS OF DISTRICT MAGISTRATE
25 COURT.

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

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

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

5 (c) Issue writs of habeas corpus,

6 (d) Issue warrants of arrest and summons and
7 search warrants.

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

15 Sec. 8. FUNCTIONS, POWERS AND DUTIES OF DISTRICT MAGISTRATE
16 AND DEPUTY MAGISTRATE.

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

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

25 (b) Of a notary public.

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

28 (d) To issue warrants of arrest, summons and
29 search warrants according to manner and procedure prescribed

1 by law and the supreme court.

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

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

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

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

12 (a) To perform the duties and exercise the
13 authority of coroner as such duties and authority are or
14 may hereafter be prescribed by law.

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

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

24 Sec. 9. SEAL OF COURT. The seal of the district magistrate
25 court shall be a vignette of the official flag of Alaska with the
26 words "Seal of the District Magistrate Court of the State of
27 Alaska for the (number of district) Judicial District", surround-
28 ing the vignette.

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

6 Sec. 11. QUALIFICATIONS OF MAGISTRATES.

7 (1) DISTRICT MAGISTRATE. A district magistrate shall
8 be a citizen of the United States and of the state, a resident of
9 the state for at least 90 days immediately preceding his appoint-
10 ment, and at the time of appointment be licensed to practice law
11 in Alaska. The supreme court may prescribe additional qualifica-
12 tions.

13 (2) DEPUTY MAGISTRATES. A deputy magistrate shall be
14 a citizen of the United States and of the state, twenty-one years
15 of age or over, and a resident of the state for at least six
16 months immediately preceding his appointment. The supreme court
17 may prescribe additional qualifications.

18 Sec. 12. SELECTION AND TENURE OF MAGISTRATES. The presiding
19 judge of the superior court in each judicial district shall
20 appoint the district magistrates and deputy magistrates for the
21 district magistrate court for his judicial district. They shall
22 serve at the pleasure of such presiding judge. Vacancies shall
23 be filled in the same manner as appointment.

24 Sec. 13. OATH OF OFFICE. Each district magistrate and
25 deputy magistrate, upon entering office, shall take and subscribe
26 to an oath of office required of all officers under the constitu-
27 tion and such further oaths or affirmations as may be prescribed
28 by law.

29 Sec. 14. ASSIGNMENT OF MAGISTRATES. A district magistrate

1 or deputy magistrate shall hold court at such times and places
2 as are assigned by the presiding judge of the superior court of
3 their district. The presiding judge in any judicial district
4 may assign any district magistrate or deputy magistrate within
5 his district to serve temporarily in any other judicial district.
6 Rules and procedures for such temporary assignment including the
7 emergency situation where a superior court judge is not readily
8 available to assign a magistrate shall be as prescribed by the
9 supreme court.

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

18 Sec. 16. RESTRICTIONS.

19 (1) DISTRICT MAGISTRATE. A district magistrate, while
20 holding office, may not practice law, hold office in a political
21 party, or hold any other office or position of profit under the
22 United States, the state or its political subdivisions, except
23 that the district magistrate may be appointed deputy clerk of the
24 superior court. Any district magistrate filing for an elective
25 public office forfeits his judicial position.

26 (2) DEPUTY MAGISTRATE. A deputy magistrate, while
27 holding office, may not hold office in a political party. He may
28 hold any other office or position of profit under the United
29 States, the state or its political subdivisions, or engage in the

1 conduct of any profession or business which does not interfere
2 with the performance of his judicial duties or require that he
3 repeatedly disqualify himself from judicial service because of a
4 conflict of interest caused thereby.

5 Sec. 17. COMPENSATION.

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

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

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

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

22 Sec. 19. LIMITATIONS ON POWERS OF DEPUTY MAGISTRATE. The
23 powers of the deputy magistrate are limited and he shall only
24 preside in cases and proceedings as follows except as provided
25 in Sec. 8:

26 (1) For the recovery of money or damages only when
27 the amount claimed exclusive of costs, interest and attorneys
28 fees does not exceed five hundred (\$500.00) dollars;

29 (2) For the recovery of specific personal property,

1 when the value of the property claimed and the damages for the
2 detention do not exceed five hundred (\$500.00) dollars;

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

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

9 (5) To act as examining magistrate in preliminary
10 examinations in criminal proceedings;

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

14 Sec. 20. APPEAL.

15 (1) CIVIL. Any judgment of the district magistrate
16 court in a civil action may be appealed by either party to the
17 superior court when the sum in controversy is not less than fifty
18 (\$50.00) dollars, or for the recovery of personal property of the
19 value of not less than fifty (\$50.00) dollars exclusive of costs
20 in either case, except when the sum is given by confession or for
21 want of an answer and not otherwise.

22 (2) CRIMINAL. Any judgment of conviction given in the
23 district magistrate court in a criminal action may be appealed by
24 the defendant to the superior court, except when such judgment is
25 given on a plea of guilty. The state shall have no right of
26 appeal in criminal actions for which judgment is given in the
27 district magistrate courts, except to test the sufficiency of the
28 information.

29 (3) TIME FOR APPEAL: TRIAL DE NOVO. Appeals shall be

1 taken within thirty days from the date of entry of the judgment.
2 All appeals shall be trials de novo.

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

6 Sec. 21. FINES: DISPOSITION OF. Whenever pursuant to law,
7 any fees, fines, forfeitures, or penalties are levied and collected
8 by the district magistrate or deputy magistrate, the proceeds
9 thereof and all other monies collected shall be accounted and
10 transmitted to the administrative director of the judicial system
11 for transfer to the general fund of the state.

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

17 Sec. 23. Political subdivisions desiring to retain the
18 proceeds of fines, penalties and forfeitures resulting from
19 violations of ordinances shall have a district or deputy magis-
20 trate, depending, in the discretion of the supreme court, on
21 the size of the subdivision, with jurisdiction over matters
22 involving violations of their ordinances, detailed to the political
23 subdivision to exercise said jurisdiction concurrently with juris-
24 diction over matters involving state laws. The said political
25 subdivision shall enter into agreements with the state administra-
26 tive director of courts to pay for judicial services rendered
27 the political subdivision by the magistrate so detailed. Fines,
28 penalties and forfeitures imposed after appeals shall accrue to
29 the state, unless the appeal is prosecuted by the political

1 subdivision.

2 ARTICLE II
3 ORGANIZATION

4 Sec. 24. COMMENCEMENT AND TRANSFER OF CAUSES.

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

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

24 Sec. 25. DECLARATION OF INTENT. It is the intent of the
25 Legislature by the passage of this Act to implement the organiza-
26 tion of the state courts provided for in the Constitution of the
27 State of Alaska by establishing subordinate courts as an integral
28 part of a unified judicial system. To this end, the district
29 magistrate courts as herein established shall constitute the

1 sole and exclusive subordinate court system of the state. Their
2 jurisdiction is hereby declared to be supplementary to the original
3 jurisdiction of the superior court, and to the extent provided
4 herein shall be concurrent therewith.

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

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

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

1 subordinate court system and an estimate of the capital outlay
2 required for physical facilities such as courtrooms, and furnish-
3 ings and such additional information with regard to the administra-
4 tion of justice through the subordinate court system as may be
5 required to fully inform the Legislature upon the subject.

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

12 (3) Notwithstanding the provisions of subsections (1)
13 and (2) of this section, in the event that either: (a) a court of
14 competent jurisdiction, by final judgment, declares that the
15 District Court of the District of Alaska lacks jurisdiction to
16 determine causes arising under the laws of the state, notwith-
17 standing the provisions of Public Law 508, 85th Congress; or (b)
18 the President of the United States, by executive order, terminates
19 the jurisdiction of the District Court of the District of Alaska;
20 and thereafter the supreme and superior courts of the state
21 assume exclusive state jurisdiction, the presiding judges of the
22 superior court shall forthwith appoint the necessary magistrates
23 for the district magistrate courts as provided herein and in any
24 event shall so appoint such necessary magistrates prior to
25 January 3, 1962. If the events described in the preceding sentence
26 take place the Supreme Court is hereby empowered to establish,
27 modify or discontinue recording districts or precincts; to prescribe
28 the records to be maintained and the instruments to be recorded
29 and the accounting for recording fees; to engage and compensate

1 recorders, deputy recorders and clerks, to require magistrates
2 to act as recorders where, and to the extent, necessary; to
3 prescribe recording fees and to do all things necessary to maintain
4 the recording system existing on the effective date hereof, until
5 the Legislature otherwise provides by law.

6 Sec. 27. SEVERABILITY. The fact that any section, sub-
7 section, sentence, clause or phrase of this Act is declared
8 invalid for any reason shall not affect the remaining portion of
9 this Act.

10 Sec. 28. EFFECTIVE DATE. This Act shall take effect imme-
11 diately upon its passage and approval or upon its becoming law
12 without such approval.

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