

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

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Fourth Judicial District. 2

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

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

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

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

Sec. 3. CIVIL JURISDICTION.

(1) The district magistrate court shall have jurisdiction of civil cases and proceedings as follows:

(a) For the recovery of money or damages only when the amount claimed exclusive of costs, interest and attorneys fees does not exceed three thousand (\$3,000.00) dollars;

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

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

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

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

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

9 (g) For proceedings under the "Village Incorpora-
10 tion 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 (1) To an action in which the title to real property
17 shall come in question;

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

22 Sec. 5. CRIMINAL JURISDICTION.

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

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

27 (b) Violations of ordinances of political sub-
28 divisions.

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 contempts, 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
HCS for SB #117
Engrossed as amended

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. The supreme court may prescribe additional qualifications.

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

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

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

27 Sec. 14. ASSIGNMENT OF MAGISTRATES. A district magistrate
28 or deputy magistrate shall hold court at such times and places
29 as are assigned by the presiding judge of the superior court of

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

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

16 Sec. 16. RESTRICTIONS.

17 (1) DISTRICT MAGISTRATE. A district magistrate, while
18 holding office, may not practice law, engage in the conduct of
19 any other profession, vocation or business for profit or compensa-
20 tion, hold office in a political party, or hold any other office
21 or position of profit under the United States, the state or its
22 political subdivisions, except that the district magistrate may be
23 appointed deputy clerk of the superior court. Any district magis-
24 trate filing for an elective public office forfeits his judicial
25 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 payable
9 annually in twelve equal monthly 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 affidavit
15 that no matter referred to him for opinion or decision has been
16 uncompleted or undecided by him for a period of more than six months.

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

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

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

28 (2) For the recovery of specific personal property,
29 when the value of the property claimed and the damages for the

1 detention do not exceed five hundred (\$500.00) dollars;

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

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

8 (5) To act as examining magistrate in preliminary
9 examinations in criminal proceedings; to set and receive bail and
10 to order the release of defendants under bail;

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 (7) To hear, try and enter judgments in all cases
15 involving misdemeanors, other than violations of ordinances of
16 political subdivisions, if the defendant consents in writing that
17 the deputy magistrate shall try him; and,

18 (8) To hear, try and enter judgments in all cases
19 involving violations of ordinances of political subdivisions.

20 Sec. 20. APPEAL.

21 (1) CIVIL. Any judgment of the district magistrate
22 court in a civil action may be appealed by either party to the
23 superior court when the sum in controversy is not less than fifty
24 (\$50.00) dollars, or for the recovery of personal property of the
25 value of not less than fifty (\$50.00) dollars exclusive of costs
26 in either case, except when the sum is given by confession or for
27 want of an answer and not otherwise.

28 (2) CRIMINAL. Any judgment of conviction given in the
29 district magistrate court in a criminal action may be appealed by

1 the defendant to the superior court, except when such judgment is
2 given on a plea of guilty. The state shall have no right of
3 appeal in criminal actions for which judgment is given in the
4 district magistrate courts, except to test the sufficiency of the
5 information.

6 (3) TIME FOR APPEAL: TRIAL DE NOVO. Appeals shall be
7 taken within thirty days from the date of entry of the judgment.
8 All appeals shall be trials de novo.

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

12 Sec. 21. FINES: DISPOSITION OF. Whenever pursuant to law,
13 any fees, fines, forfeitures, or penalties are levied and collected
14 by the district magistrate or deputy magistrate, the proceeds
15 thereof and all other monies collected shall be accounted and
16 transmitted to the administrative director of the judicial system
17 for transfer to the general fund of the state except as provided
18 in Section 23 of this Act.

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

24 Sec. 23. RETENTION OF FINES, ETC., BY POLITICAL SUBDIVISIONS
25 Political subdivisions desiring to retain the proceeds of fines,
26 penalties and forfeitures resulting from violations of ordinances
27 shall have a district or deputy magistrate, depending, in the
28 discretion of the supreme court, on the size of the subdivision,
29 with jurisdiction over matters involving violations of their

1 ordinances, detailed to the political subdivision to exercise said
2 jurisdiction concurrently with jurisdiction over matters involving
3 state laws. The said political subdivision shall enter into agree-
4 ments with the state administrative director of courts to pay for
5 judicial services rendered the political subdivision by the magis-
6 trate so detailed. Fines, penalties and forfeitures imposed after
7 appeals shall accrue to the state, unless the appeal is prosecuted
8 by the political subdivision.

9 ARTICLE II

10 ORGANIZATION

11 Sec. 24. COMMENCEMENT AND TRANSFER OF CAUSES.

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

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

1 by law.

2 Sec. 25. DECLARATION OF INTENT. It is the intent of the
3 Legislature by the passage of this Act to implement the organiza-
4 tion of the state courts provided for in the Constitution of the
5 State of Alaska by establishing subordinate courts as an integral
6 part of a unified judicial system. To this end, the district
7 magistrate courts as herein established shall constitute the sole
8 and exclusive subordinate court system of the state. Their juris-
9 diction is hereby declared to be supplementary to the original
10 jurisdiction of the superior court, and to the extent provided
11 herein shall be concurrent therewith.

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

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

27 (1) The Judicial Council shall, in cooperation with
28 and through the facilities of the Legislative Council, institute
29 studies and make reports and recommendations with regard to the

1 facilities needed for the district magistrate courts of the state.
2 Such studies and reports shall include, but not be limited to,
3 necessary courtroom facilities and the location thereof; the
4 number and nature of court attaches, and personnel and the esti-
5 mated salary requirements of each position; recommended rules
6 governing practice and procedure in civil and criminal cases; an
7 estimated annual budget of the costs of operating the proposed
8 subordinate court system and an estimate of the capital outlay
9 required for physical facilities such as courtrooms, and furnish-
10 ings and such additional information with regard to the administra-
11 tion of justice through the subordinate court system as may be
12 required to fully inform the Legislature upon the subject.

13 (2) Upon the appointment within any judicial district
14 of a presiding judge of the superior court, he may appoint any or
15 all of the magistrates of the district magistrate court within
16 his district in such manner as will provide a gradual series of
17 appointments consistent with the availability of facilities and
18 personnel.

19 (3) Notwithstanding the provisions of subsections (1)
20 and (2) of this section, in the event that either: (a) a court of
21 competent jurisdiction, by final judgment, declares that the
22 District Court of the District of Alaska lacks jurisdiction to
23 determine causes arising under the laws of the state, notwith-
24 standing the provisions of Public Law 508, 85th Congress; or (b)
25 the President of the United States, by executive order, terminates
26 the jurisdiction of the District Court of the District of Alaska;
27 and thereafter the supreme and superior courts of the state
28 assume exclusive state jurisdiction, the presiding judges of the
29 superior court shall forthwith appoint the necessary magistrates

1 for the district magistrate courts as provided herein and in any
2 event shall so appoint such necessary magistrates prior to
3 January 3, 1962. If the events described in the preceding sentence
4 take place the Supreme Court is hereby empowered to establish,
5 modify or discontinue recording districts or precincts; to prescribe
6 the records to be maintained and the instruments to be recorded
7 and the accounting for recording fees; to engage and compensate
8 recorders, deputy recorders and clerks, to require magistrates
9 to act as recorders where, and to the extent, necessary; to
10 prescribe recording fees and to do all things necessary to maintain
11 the recording system existing on the effective date hereof, until
12 the Legislature otherwise provides by law.

13 Sec. 27. SEVERABILITY. The fact that any section, sub-
14 section, sentence, clause or phrase of this Act is declared
15 invalid for any reason shall not affect the remaining portion of
16 this Act.

17 Sec. 28. EFFECTIVE DATE. This Act shall take effect imme-
18 diately upon its passage and approval or upon its becoming law
19 without such approval.
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