

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 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 as amended -6-
Engrossed as amended by Free Conf. Com.

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, 21 years of
9 age or older, a resident of the state for at least 90 days imme-
10 diately preceding his appointment, and at the time of his appoint-
11 ment licensed to practice law in at least one of the states of the
12 United States, providing, however, that if a competent, licensed
13 attorney is not available for appointment, a person otherwise
14 qualified may be appointed. The supreme court may prescribe
15 additional qualifications.

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

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

27 Sec. 13. OATH OF OFFICE. Each district magistrate and depu-
28 ty magistrate, upon entering office, shall take and subscribe to an
29 oath of office required of all officers under the constitution and

1 such further oaths or affirmations as may be prescribed by law.

2 Sec. 14. ASSIGNMENT OF MAGISTRATES. A district magistrate
3 or deputy magistrate shall hold court at such times and places as
4 are assigned by the presiding judge of the superior court of their
5 district. The presiding judge in any judicial district may assign
6 any district magistrate or deputy magistrate within his district
7 to serve temporarily in any other judicial district. Rules and
8 procedures for such temporary assignment including the emergency
9 situation where a superior court judge is not readily available to
10 assign a magistrate shall be as prescribed by the supreme court.

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

18 Sec. 16. RESTRICTIONS.

19 (1) DISTRICT MAGISTRATE. A district magistrate, while
20 holding office, may not practice law, except before a federal
21 district court or federal agency and when such practice does not
22 interfere with the performance of his official duties as magistrate,
23 engage in the conduct of any other profession, vocation or business
24 for profit or compensation, hold office in a political party, or
25 hold any other office or position of profit under the United
26 States, the state or its political subdivisions, except that the
27 district magistrate may be appointed deputy clerk of the superior
28 court. Any district magistrate filing for an elective public
29 office forfeits his judicial position.

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

9 Sec. 17. COMPENSATION.

10 (1) Each district magistrate shall receive annual
11 compensation to be determined by the supreme court, but in any
12 event not to exceed \$10,000.00. Such compensation shall be payable
13 annually in twelve equal monthly installments.

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

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

22 Sec. 18. ADDITIONAL COMPENSATION. Subject to rule of the
23 supreme court, a district magistrate or deputy magistrate shall
24 receive a per diem allowance and a transportation allowance com-
25 mensurate with that authorized for other state employees.

26 Sec. 19. LIMITATIONS ON POWERS OF DEPUTY MAGISTRATE. The
27 powers of the deputy magistrate are limited and he shall only
28 preside in cases and proceedings as follows except as provided in
29 Sec. 8:

1 (1) For the recovery of money or damages ~~only~~ when the
2 amount claimed exclusive of costs, interest and attorneys fees does
3 not exceed two hundred fifty (\$250.00) dollars;

4 (2) For the recovery of specific personal property,
5 when the value of the property claimed and the damages for the
6 detention do not exceed five hundred (\$500.00) dollars;

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

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

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

16 (6) To give judgment of conviction upon a plea of
17 guilty by the defendant in all criminal proceedings within the
18 jurisdiction of the district magistrate court;

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

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

25 Sec. 20. APPEAL.

26 (1) CIVIL. Any judgment of the district magistrate
27 court in a civil action may be appealed by either party to the
28 superior court when the sum in controversy is not less than fifty
29 (\$50.00) dollars, or for the recovery of personal property of the

1 value of not less than fifty (\$50.00) dollars exclusive of costs
2 in either case, except when the sum is given by confession or for
3 want of an answer and not otherwise.

4 (2) CRIMINAL. Any judgment of conviction given in the
5 district magistrate court in a criminal action may be appealed by
6 the defendant to the superior court, except when such judgment is
7 given on a plea of guilty, provided that the supreme court by
8 rule may provide for review of a judgment given on a plea of
9 guilty. The state shall have no right of appeal in criminal
10 actions for which judgment is given in the district magistrate
11 courts, except to test the sufficiency of the information.

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

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

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

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

1 other officers thereof, or the Court of Appeals or the Supreme
2 Court of the United States of jurisdiction as provided in Public
3 Law 508, 85th Congress, and other laws applicable thereto; or (b)
4 the municipal magistrate courts of jurisdiction as provided by
5 law.

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

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

28 Sec. 26. METHOD OF TRANSITION: RECORDING. To effect the
29 intention expressed in Sec. 25, the district magistrate courts

1 shall be organized in the following manner:

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

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

23 (3) Notwithstanding the provisions of subsections (1)
24 and (2) of this section, in the event that either: (a) a court of
25 competent jurisdiction, by final judgment, declares that the
26 District Court of the District of Alaska lacks jurisdiction to
27 determine causes arising under the laws of the state, notwith-
28 standing the provisions of Public Law 508, 85th Congress; or (b)
29 the President of the United States, by executive order, terminates

1 the jurisdiction of the District Court of the District of Alaska;
2 and thereafter the supreme and superior courts of the state
3 assume exclusive state jurisdiction, the presiding judges of the
4 superior court shall forthwith appoint the necessary magistrates
5 for the district magistrate courts as provided herein and in any
6 event shall so appoint such necessary magistrates prior to
7 January 3, 1962. If the events described in the preceding sentence
8 take place the Supreme Court is hereby empowered to establish,
9 modify or discontinue recording districts or precincts; to pre-
10 scribe the records to be maintained and the instruments to be
11 recorded and the accounting for recording fees; to engage and com-
12 pensate recorders, deputy recorders and clerks, to require magis-
13 trates to act as recorders where, and to the extent, necessary; to
14 prescribe recording fees and to do all things necessary to maintain
15 the recording system existing on the effective date hereof, until
16 the Legislature otherwise provides by law.

17 Sec. 27. SEVERABILITY. The fact that any section, sub-
18 section, sentence, clause or phrase of this Act is declared
19 invalid for any reason shall not affect the remaining portion of
20 this Act.

21 Sec. 28. EFFECTIVE DATE. This Act shall take effect imme-
22 diately upon its passage and approval or upon its becoming law
23 without such approval.