

1 IN THE SENATE

BY SENATOR POLLOCK

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the district magistrate
7 courts; changing the Rules of Civil Proce-
8 dure; and providing for an effective date."

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

10 Section 1. Sec. 1, Art. I, Ch. 184, SLA 1959, is repealed
11 and re-enacted to read:

12 Section 1. ESTABLISHMENT OF THE DISTRICT MAGISTRATE
13 COURT. There is created a district magistrate court for the
14 state. The court consists of four districts which correspond
15 to the four districts of the superior court.

16 Sec. 2. Sec. 2, Art. I, Ch. 184, SLA 1959, is repealed and
17 re-enacted to read:

18 Sec. 2. NUMBER OF MAGISTRATES. The number of district
19 and deputy magistrates within each judicial district may be
20 established and increased or decreased by rule of the supreme
21 court.

22 Sec. 3. Sec. 3(1), Art. I, Ch. 184, SLA 1959, is amended to
23 read:

24 (1) The civil jurisdiction of the district magistrate
25 court extends over the entire state. The district magistrate
26 court shall have jurisdiction of civil cases and proceedings
27 as follows:

28 (a) For the recovery of money or damages only
29 when the amount claimed exclusive of costs, interest and

1 attorneys fees does not exceed three thousand (\$3,000.00)
2 dollars;

3 (b) For the recovery of specific personal
4 property, when the value of the property claimed and the
5 damages for the detention do not exceed three thousand
6 (\$3,000.00) dollars;

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

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

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

16 (f) For cases involving minors under the age of
17 eighteen years and arising under the provisions of Ch.
18 145, SLA 1957, as amended;

19 (g) For proceedings under the "Village Incorpo-
20 ration Act of 1957"(Ch. 150, SLA 1957).

21 Sec. 4. Sec. 5(1), Art. I, Ch. 184, SLA 1959, is amended
22 to read:

23 (1) The criminal jurisdiction of the district magis-
24 trate court extends over the entire state. The district
25 magistrate court shall have jurisdiction of the following
26 crimes:

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

29 (b) Violations of ordinances of political

1 subdivisions.

2 Sec. 5. Sec. 6, Art. I, Ch. 184, SLA 1959, is amended to
3 read:

4 Sec. 6. [JURISDICTION AND] VENUE.

5 [(1) THE CRIMINAL JURISDICTION OF THE DISTRICT MAGIS-
6 TRATE COURT SHALL EXTEND OVER THE ENTIRE STATE; THE CIVIL
7 JURISDICTION OF SAID COURT SHALL EXTEND OVER THE WHOLE OF
8 THE JUDICIAL DISTRICT.]

9 (1) [(2)]. The court in which an [THE] action is pend-
10 ing shall change the place of trial in any action from one
11 place to another place in the same judicial district or to
12 a designated place in another judicial district when the
13 court finds any of the following:

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

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

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

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

25 (2) If an action for a small claim is brought (a)
26 where the defendant resides, (b) where the plaintiff resides,
27 (c) if it is an action on a contract, where the contract
28 was consummated or was to be performed, or (d) if it is an
29 action for a tort, where the tort matured, the place of

1 trial may not be changed under (1)(d) of this section.

2 Sec. 6. Sec. 7(2), Art. I, Ch. 184, SLA 1959, is amended to
3 read:

4 (2) The court shall meet in each [ITS] district at
5 such times and at such place or places therein as may be
6 designated by rule or order of the supreme court. The
7 district magistrate court[S] is [ARE] vested with all power
8 and authority necessary to carry into complete execution all
9 its [THEIR] judgments, decrees and determinations in all
10 matters within its [THEIR] jurisdiction according to the
11 constitution, the laws of the state and the common law.

12 Sec. 7. Sec. 10A, Art. I, Ch. 184, SLA 1959, as added by
13 Ch. 82, SLA 1961, is amended to read:

14 Sec. 10A. JURY TRIALS. The trial jury in the magis-
15 trate court[S] shall consist of a body of persons six in
16 number.

17 Sec. 8. Sec. 12, Art. I, Ch. 184, SLA 1959, is amended to
18 read:

19 Sec. 12. SELECTION AND TENURE OF MAGISTRATES. The
20 presiding judge of the superior court in each judicial
21 district shall appoint the district magistrates and deputy
22 magistrates [FOR THE DISTRICT MAGISTRATE COURT] for his
23 judicial district. They shall serve at the pleasure of
24 such presiding judge. Vacancies shall be filled in the
25 same manner as appointment.

26 Sec. 9. Sec. 20(4), Art. I, Ch. 184, SLA 1959, is amended
27 to read:

28 (4) FURTHER RULES. The supreme court shall prescribe
29 further rules for the procedure for appeals from the

1 district magistrate court[S].

2 Sec. 10. Sec. 25, Art. II, Ch. 184, SLA 1959, is amended
3 to read:

4 Sec. 25. DECLARATION OF INTENT. It is the intent of
5 the Legislature by the passage of this Act to implement the
6 organization of the state courts provided for in the
7 Constitution of the State of Alaska by establishing a sub-
8 ordinate court[S] as an integral part of a unified judicial
9 system. To this end, the district magistrate court[S AS
10 HEREIN ESTABLISHED] shall constitute the sole and exclusive
11 subordinate court system of the state. Its [THEIR] juris-
12 diction is hereby declared to be supplementary to the
13 original jurisdiction of the superior court, and to the
14 extent provided herein shall be concurrent therewith.

15 The Legislature recognizes that, because of the size
16 and scattered population of the state, with its remote and
17 isolated settlements, complexities within a unified court
18 system necessarily arise. Therefore, in order to avoid a
19 duplication of subordinate court jurisdictions, and to
20 provide prompt and efficient administration of justice,
21 there is established in this Act a single subordinate court
22 [WITHIN EACH JUDICIAL DISTRICT, BUT WITH EACH SUCH DISTRICT
23 MAGISTRATE COURT] having as court officers district magis-
24 trates with general trial power [WITHIN LIMITS OF THE COURT'S
25 JURISDICTION] and deputy magistrates of limited trial power
26 sufficient to meet the immediate requirements of justice
27 in the less populated areas of the state.

28 Sec. 11. SAVING CLAUSE. This Act does not affect litigation
29 begun prior to the effective date of this Act.

1 Sec. 12. RULES OF PROCEDURE. This Act changes the Rules
2 of Civil Procedure.

3 Sec. 13. EFFECTIVE DATE. This Act takes effect on the day
4 after its passage and approval or on the day it becomes law
5 without such approval.

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