

Introduced: 3/6/75
Referred: Judiciary and
Finance

1 IN THE HOUSE

BY NAUGHTON AND BRADNER

2 HOUSE BILL NO. 270

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the administration of justice."

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

8 * Section 1. AS 44.23 is amended by adding new sections to read:

9 ARTICLE 2. DISTRICT ATTORNEYS.

10 Sec. 44.23.070. CREATION OF OFFICE. There is created within the
11 Department of Law the office of district attorney. There shall be three
12 district attorneys, one of whom shall serve at Juneau as district attor-
13 ney for the first judicial district, one of whom shall serve at Anchorage
14 as district attorney for the third judicial district, and one of whom
15 shall serve at Fairbanks as district attorney for the second and fourth
16 judicial districts.

17 Sec. 44.23.080. APPOINTMENT AND TERM. The governor shall appoint
18 each district attorney from among two or more persons nominated to that
19 position by the judicial council. The district attorney shall serve a
20 term of five years. The appointment is subject to confirmation by a
21 majority of the members of the legislature in joint session. If the
22 governor decides to retain the district attorney for another term he
23 need not call for nominations from the judicial council; however, the
24 retention must be approved by a majority of the members of the legisla-
25 ture in joint session.

26 Sec. 44.23.090. QUALIFICATIONS. A district attorney shall be a
27 citizen of the United States and of the state, a resident of the state
28 for three years immediately preceding his appointment, have been engaged
29 in the active practice of law for not less than five years immediately

1 preceding his appointment, and at the time of his appointment be licensed
2 to practice law in the state. The active practice of law shall be
3 as defined for superior court judges.

4 Sec. 44.23.100. COMPENSATION. The salary of the district attorney
5 shall be the same as established by law for a judge of the superior
6 court. He shall be eligible for retirement and death benefits as estab-
7 lished for justices and judges.

8 Sec. 44.23.110. DUTIES. The district attorney is the public
9 prosecutor. He

10 (1) shall conduct on behalf of the people all prosecutions
11 for public offenses;

12 (2) in connection with grand jury proceedings,

13 (A) shall submit an indictment to the grand jury and
14 cause the evidence in support of the indictment to be brought
15 before them in every case when a person is held to answer a criminal
16 charge in the court where the jury is formed:

17 (B) may submit an indictment in any case when he has
18 good reason to believe a crime has been committed which is triable
19 by the court; and

20 (C) shall, when required by the grand jury, prepare
21 indictments or presentments for them and attend their sittings to
22 advise them in relation to their duties or to examine witnesses in
23 their presence;

24 (3) shall perform other duties required by law.

25 Sec. 44.23.120. RESTRICTIONS. A district attorney, while holding
26 office, may not practice law, nor engage in the conduct of another
27 profession, vocation or business for profit or compensation which would
28 interfere with the performance of his duties, nor may he hold office
29 in a political party or hold another office or position of profit under

1 the United States, the state or its political subdivisions. A district
2 attorney who files for an elective public office forfeits his position.

3 Sec. 44.23.130. OATH OF OFFICE. Each district attorney upon
4 entering office shall take and subscribe to an oath of office required
5 of all officers under the constitution.

6 Sec. 44.23.140. DEPUTIES. The district attorney serving as
7 district attorney for the third judicial district may have two deputy
8 district attorneys. Each other district attorney may have one deputy.

9 Sec. 44.23.150. OTHER EMPLOYEES. Each district attorney may
10 employ the assistants and other employees as may be needed. The assis-
11 tants and other employees may be stationed at locations designated by
12 the district attorney.

13 Sec. 44.23.160. REMOVAL. The district attorney is subject to
14 removal by the governor for good cause. If the district attorney is
15 removed, the governor shall submit to the legislature a report stating
16 the reasons for his removal. The report shall be submitted within 10
17 days after the action has been taken if the legislature is in session,
18 or if the legislature is not in session, within 10 days after the con-
19 vening of the next regular or special session.

20 * Sec. 2. AS 18.85.030 is amended to read:

21 Sec. 18.85.030. APPOINTMENT AND TERM. The governor shall appoint
22 the public defender from among two or more persons nominated for that
23 position by the judicial council. The appointment is subject to
24 confirmation by majority of the members of the legislature in joint
25 session. The public defender shall serve a term of five [FOUR] years.
26 If the governor decides to retain the public defender for another term
27 he need not call for nominations from the judicial council; however,
28 the retention must be approved by a majority of the members of the legis-
29 lature in joint session.

1 * Sec. 3. AS 18.85.060 is repealed and re-enacted to read:

2 Sec. 18.85.060. QUALIFICATIONS. A public defender shall be a
3 citizen of the United States and of the state, a resident of the state
4 for three years immediately preceding his appointment, have been engaged
5 for not less than five years immediately preceding his appointment in
6 the active practice of law, and at the time of appointment be licensed
7 to practice law in the state. The active practice of law shall be as
8 defined for superior court judges.

9 * Sec. 4. AS 18.85 is amended by adding a new section to read:

10 Sec. 18.85.065. COMPENSATION. The salary of the public defender
11 shall be the same as established by law for a judge of the superior
12 court. He shall be eligible for retirement and death benefits as estab-
13 lished for justices and judges.

14 * Sec. 5. AS 18.85.070 is amended to read:

15 Sec. 18.85.070. PRIVATE PRACTICE PROHIBITED. The public defender
16 and assistant public defenders shall devote all of their time to the
17 duties of their respective offices and may not engage in the practice of
18 law except in their official capacities in the agency. The public
19 defender may not hold office in a political party or hold another office
20 or position of profit under the United States, the state or its political
21 subdivisions. A public defender who files for elective public office
22 forfeits his position.
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