

Offered: 3/18/85
Referred: Finance

Original sponsors: Ziegler and Ray

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 1 (Judiciary) am H
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the jurisdiction of the superior
7 court and the district court; and providing for an
8 effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 08.18.081(a) is amended to read:
11 (a) A person having a claim against a contractor for any of the
12 items referred to in AS 08.18.071 may bring suit upon the bond in the
13 district [SUPERIOR] court of the judicial district in which venue lies
14 [THE WORK IS DONE OR OF ANY JUDICIAL DISTRICT IN WHICH JURISDICTION OF
15 THE CONTRACTOR MAY BE OBTAINED]. A copy of the complaint shall be
16 served by registered or certified mail upon the commissioner at the
17 time suit is filed and the commissioner shall maintain a record,
18 available for public inspection, of all suits commenced. Two addi-
19 tional copies shall be served upon the director of the division of
20 insurance with the payment of \$5 to the director taxable as costs in
21 the action. This service upon the director shall constitute service
22 on the surety and the director shall transmit the complaint or a copy
23 of it to the surety within 72 hours after it has been received. The
24 surety upon the bond is not liable in an aggregate amount in excess of
25 that named in the bond, but in case claims pending at any one time
26 exceed the amount of the bond, the claims shall be satisfied from the
27 bond in the following order:
28 (1) labor, including employee benefits;
29 (2) taxes and contributions due the state, city and

1 borough, in that order;

2 (3) material and equipment;

3 (4) claims for breach of contract;

4 (5) repair of public facilities.

5 * Sec. 2. AS 22.10.020(a) is amended to read:

6 (a) The superior court is the trial court of general jurisdic-
7 tion, with original jurisdiction in all civil and criminal matters,
8 including probate and guardianship of minors and incompetents. Except
9 for a petition for injunctive relief under AS 25.35.010 or 25.35.020,
10 an action that falls within the concurrent jurisdiction of the su-
11 perior court and the district court may not be filed in the superior
12 court, except as provided by rules of the supreme court.

13 * Sec. 3. AS 22.15.030 is amended to read:

14 Sec. 22.15.030. CIVIL JURISDICTION. (a) The district court has
15 jurisdiction of civil cases and proceedings as follows:

16 (1) for the recovery of money or damages when the amount
17 claimed exclusive of costs, interest and attorney fees does not exceed
18 \$25,000 [\$10,000, EXCEPT AS PROVIDED IN (10) OF THIS SUBSECTION];

19 (2) for the recovery of specific personal property, when
20 the value of the property claimed and the damages for the detention do
21 not exceed \$25,000 [\$10,000];

22 (3) for the recovery of a penalty or forfeiture, whether
23 given by statute or arising out of contract, not exceeding \$25,000
24 [\$10,000];

25 (4) to give judgment without action upon the confession of
26 the defendant for any of the cases specified in this section, except
27 for a penalty or forfeiture imposed by statute;

28 (5) for establishing the fact of death of any person in the
29 manner prescribed in AS 09.55.020 - 09.55.060;

1 (6) [REPEALED.

2 (7) REPEALED.

3 (8)] for the recovery of the possession of premises in the
4 manner provided under AS 09.45.070 - 09.45.160 when the value of the
5 property or of the arrears and damage to the property does not exceed
6 \$25,000 [\$10,000];

7 (7) [(9)] for the foreclosure of a lien when the amount in
8 controversy does not exceed \$25,000 [\$10,000];

9 (8) [(10)] for the recovery of money or damages in motor
10 vehicle tort cases when the amount claimed exclusive of costs, inter-
11 est and attorney fees does not exceed \$25,000 [\$15,000];

12 (9) [(11)] over civil actions for taking utility service
13 and for damages to or interference with a utility line filed under
14 AS 42.20.030;

15 (10) over cases involving injunctive relief for domestic
16 violence under AS 25.35.010 and 25.35.020.

17 (b) Insofar as the civil jurisdiction of the district courts and
18 the superior court is the same, the [SUCH] jurisdiction is concurrent.
19 Except for a petition for injunctive relief under AS 25.35.010 or
20 25.35.020, an action that falls within the concurrent jurisdiction of
21 the superior court and the district court may not be filed in the
22 superior court, except as provided by rules of the supreme court.

23 * Sec. 4. AS 22.15.050 is amended to read:

24 Sec. 22.15.050. ACTIONS NOT WITHIN CIVIL JURISDICTION. The
25 jurisdiction of the district courts does not extend to

26 (1) an action in which the title to real property is in
27 question;

28 (2) an action for false imprisonment, libel, slander,
29 malicious prosecution, [CRIMINAL CONVERSATION, SEDUCTION UPON A

1 PROMISE TO MARRY,] actions of an equitable nature (except as otherwise
2 provided by law [IN AS 22.15.030(a)(9)]), or actions in which the
3 state is a defendant.

4 * Sec. 5. AS 22.15.100 is amended to read:

5 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
6 MAGISTRATE. Each district judge and magistrate has the power

7 (1) to issue writs of habeas corpus for the purpose of
8 inquiring into the cause of restraint of liberty, returnable before a
9 judge of the superior court, and the same proceedings shall be had on
10 the writ as if it had been granted by the superior court judge under
11 the laws of the state in such cases;

12 (2) of a notary public;

13 (3) to issue marriage licenses and to solemnize marriages;

14 (4) to issue warrants of arrest, summons and search war-
15 rants according to manner and procedure prescribed by law and the
16 supreme court;

17 (5) to act as an examining judge or magistrate in prelimi-
18 nary examinations in criminal proceedings; to set, receive and forfeit
19 bail and to order the release of defendants under bail;

20 (6) to act as a referee in matters and actions referred to
21 the judge or magistrate by the superior court, with all powers confer-
22 red upon referees by laws;

23 (7) of the superior court in all respects including but not
24 limited to contempts, attendance of witnesses and bench warrants;

25 (8) to order the temporary detention of a minor, or take
26 other action authorized by law or rules of procedure, in cases arising
27 under AS 47.10, when the minor is in a condition or surrounding dan-
28 gerous or injurious to the welfare of the minor or others which re-
29 quires immediate action; the action may be continued in effect until

1 reviewed by the superior court in accordance with rules of procedure
2 governing these cases;

3 (9) to issue a temporary order for [EMERGENCY] injunctive
4 relief in cases involving domestic violence as provided in AS 25.35.-
5 010 and AS 25.35.020;

6 (10) to review an administrative revocation of a person's
7 driver's license or nonresident privilege to drive, and an administra-
8 tive refusal to issue an original license, when designated as a hear-
9 ing officer by the commissioner of public safety and with the consent
10 of the administrative director of the state court system.

11 * Sec. 6. AS 25.35.010 is amended to read:

12 Sec. 25.35.010. INJUNCTIVE RELIEF IN CASES INVOLVING DOMESTIC
13 VIOLENCE. (a) A person who is subjected to domestic violence may
14 petition a superior or district court for injunctive relief restrain-
15 ing the infliction of further domestic violence against the petitioner
16 by the respondent.

17 (b) Upon receiving a petition under (a) of this section, the
18 [SUPERIOR] court shall schedule a hearing and shall provide at least
19 10 days notice to the respondent of the hearing and of the respon-
20 dent's right to appear and to be heard either in person or by attor-
21 ney. If, at the hearing, the [SUPERIOR] court finds that the peti-
22 tioner has been subjected to domestic violence by the respondent, the
23 [SUPERIOR] court may issue any order it determines to be necessary for
24 the protection of the health, safety or welfare of the petitioner or
25 of a minor child in the care of the petitioner. An order under this
26 subsection may include provisions that [WHICH]

27 (1) restrain the respondent from subjecting the petitioner
28 to domestic violence;

29 (2) direct the respondent to vacate the home of the

1 petitioner;

2 (3) restrain the respondent from communicating directly or
3 indirectly with the petitioner;

4 (4) direct the respondent to pay support for the petitioner
5 or for a minor child in the care of the petitioner if there is an
6 independent legal obligation of the respondent to support the peti-
7 tioner or the child;

8 (5) award temporary custody of a minor child to the peti-
9 tioner;

10 (6) direct the respondent to pay medical expenses incurred
11 by the petitioner as a result of the domestic violence;

12 (7) direct the respondent to engage in personal or family
13 counseling or mediation;

14 (8) restrain the respondent from entering a propelled
15 vehicle in the possession of or occupied by the petitioner.

16 (c) An order issued under this section remains in effect for a
17 period of time not to exceed 90 days. However, the petitioner may
18 petition the [SUPERIOR] court for an extension of a provision of the
19 order if the provision is described in (b)(1), (b)(2), (b)(3), (b)(7),
20 or (b)(8) of this section. If the [SUPERIOR] court, after notice to
21 the respondent of and a hearing on the petition for the extension in
22 accordance with the procedures described in (b) of this section, finds
23 that an extension of the provision of the order is necessary to pro-
24 tect the petitioner or a minor child in the care of the petitioner
25 from domestic violence, the [SUPERIOR] court may extend the provision
26 of the order for a period of time not to exceed 45 days. The court
27 may not grant more than one extension under this subsection.

28 (d) Proceedings under this section do not preclude any other
29 available civil or criminal remedies.

1 * Sec. 7. AS 25.35.020(a) is amended to read:

2 (a) A person who has been subjected to domestic violence may
3 petition the superior or district court for a temporary order provid-
4 ing for emergency injunctive relief restraining the infliction of
5 further domestic violence against the petitioner by the respondent.
6 [IF THERE IS NO SUPERIOR COURT WITHIN 50 ROAD MILES OF THE RESIDENCE
7 OF THE PERSON SUBJECTED TO DOMESTIC VIOLENCE, THE PERSON MAY PETITION
8 THE NEAREST DISTRICT COURT FOR A TEMPORARY EMERGENCY INJUNCTIVE RELIEF
9 ORDER. IF THERE IS NO DISTRICT COURT WITHIN 50 ROAD MILES OF THE
10 RESIDENCE OF THE PERSON SUBJECTED TO DOMESTIC VIOLENCE, THE PERSON MAY
11 PETITION THE NEAREST MAGISTRATE FOR A TEMPORARY EMERGENCY INJUNCTIVE
12 RELIEF ORDER. THE DISTRICT COURT OR MAGISTRATE SHALL NOTIFY THE
13 SUPERIOR COURT IMMEDIATELY UPON ISSUANCE OF AN ORDER GRANTING EMER-
14 GENCY INJUNCTIVE RELIEF UNDER THIS SECTION.]

15 * Sec. 8. AS 25.35.020(c) is amended to read:

16 (c) An order issued under this section may include a provision
17 described in AS 25.35.010(b), except an order for mediation. The
18 order shall be endorsed with the date and hour of issuance, shall be
19 filed in the clerk's office and entered in the records of the court,
20 and shall state the reason that it was granted without notice. The
21 order shall remain in effect for a period not to exceed 20 days,
22 unless extended by the court for good cause. The reasons for the
23 extension shall be entered in the records of the court.

24 * Sec. 9. AS 25.35.020(d) is amended to read:

25 (d) If an order under this section is granted without notice, a
26 hearing before the [SUPERIOR] court for injunctive relief under
27 AS 25.35.010 shall be scheduled by the [SUPERIOR] court at the earli-
28 est possible time consistent with the notice provisions of AS 25.-
29 35.010. If at the hearing the petitioner does not proceed with the

1 petition for injunctive relief, the [SUPERIOR] court shall dissolve
2 the emergency injunctive relief order.

3 * Sec. 10. AS 25.35.020(e) is amended to read:

4 (e) On three days notice to the petitioner, or on shorter notice
5 as the [SUPERIOR] court may prescribe, the respondent may make a
6 motion to the [SUPERIOR] court for the dissolution or modification of
7 an order for emergency injunctive relief under this section. The
8 [SUPERIOR] court shall hear and rule on the motion in an expeditious
9 manner.

10 * Sec. 11. AS 34.35.005(a) is amended to read:

11 (a) When an action is required to enforce a lien provided for in
12 [SECS. 5 - 425 OF] this chapter and [,] the action falls within the
13 monetary jurisdiction of the district court, the action shall be
14 started in the district [SUPERIOR] court in the judicial district in
15 which venue lies. An action that exceeds the monetary jurisdiction of
16 the district court shall be started in the superior court in the
17 judicial district in which venue lies [THE PROPERTY UPON WHICH THE
18 LIEN ATTACHES IS LOCATED]. The procedure, except as otherwise pro-
19 vided in [SECS. 5 - 45 OF] this chapter, is the same as in the trial
20 of an action to secure property to hold it for the satisfaction of a
21 lien against it.

22 * Sec. 12. The amendments to AS 22.10.020(a) and AS 22.15.030(b),
23 provided for in secs. 2 and 3 of this Act apply only to cases filed on or
24 after the effective date of this Act.

25 * Sec. 13. This Act takes effect July 1, 1985.