

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

3/18/85

Date:

3-19-85

The Committee on FINANCE has had CSBR 1 (Jud)

"An Act relating to the jurisdiction of the superior court and the district court; and providing for an effective date."

under consideration and recommends:

do pass do not pass

do pass with attached amendments(s)

replace with CS for

CSBR 1 (Jud)

same title
 new title

and recommends do pass

AND attaches a "Letter of Intent"

New Fiscal Note

reports it back without recommendation.

Zero Fiscal Note Attached

referred to the _____

Committee

MEMBERS SIGNING

DO PASS

[Signature]
[Signature]
[Signature]
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MEMBERS HAVING

OTHER RECOMMENDATIONS:

[Signature]
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[Signature]

CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HCS CSSB 1(JUD)
 Title: Re: jurisdiction of the
 superior court & district court
 Sponsor: Ziegler
 Requestor: House Finance Committee
 Date of Request: 3/28/85

FISCAL DETAIL

Agency Affected: Court System
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		0				
200 TRAVEL		0				
300 CONTRACTUAL		0				
400 SUPPLIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS		0				
800 MISCELLANEOUS		0				
TOTAL OPERATING		0				

CAPITAL		0				
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REVENUE		0				
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FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER		0				
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

ANALYSIS: Attach a separate page if necessary

MA

Prepared By: Al Adams, Chair Phone: 465-3706
 Division: House Finance Committee Date: 3/28/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

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)

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 court and the district court; and providing for an effective date."

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

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* 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

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items referred to in AS 03.18.071 may bring suit upon the bond in the

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district [SUPERIOR] court of the judicial district in which venue lies

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[THE WORK IS DONE OR OF ANY JUDICIAL DISTRICT IN WHICH JURISDICTION OF

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THE CONTRACTOR MAY BE OBTAINED]. A copy of the complaint shall be

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served by registered or certified mail upon the commissioner at the

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time suit is filed and the commissioner shall maintain a record,

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available for public inspection, of all suits commenced. Two addi-

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tional copies shall be served upon the director of the division of

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insurance with the payment of \$5 to the director taxable as costs in

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the action. This service upon the director shall constitute service

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on the surety and the director shall transmit the complaint or a copy

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of it to the surety within 72 hours after it has been received. The

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surety upon the bond is not liable in an aggregate amount in excess of

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that named in the bond, but in case claims pending at any one time

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exceed the amount of the bond, the claims shall be satisfied from the

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bond in the following order:

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(1) labor, including employee benefits;

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(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(d) is amended to read:

16 (d) If an order under this section is granted without notice, a
17 hearing before the [SUPERIOR] court for injunctive relief under
18 AS 25.35.010 shall be scheduled by the [SUPERIOR] court at the earli-
19 est possible time consistent with the notice provisions of AS 25.-
20 35.010. If at the hearing the petitioner does not proceed with the
21 petition for injunctive relief, the [SUPERIOR] court shall dissolve
22 the emergency injunctive relief order.

23 * Sec. 9. AS 25.35.020(e) is amended to read:

24 (e) On three days notice to the petitioner, or on shorter notice
25 as the [SUPERIOR] court may prescribe, the respondent may make a
26 motion to the [SUPERIOR] court for the dissolution or modification of
27 an order for emergency injunctive relief under this section. The
28 [SUPERIOR] court shall hear and rule on the motion in an expeditious
29 manner.

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

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

13 * Sec. 11. The amendments to AS 22.10.020(a) and AS 22.15.030(b),
14 provided for in secs. 2 and 3 of this Act apply only to cases filed on or
15 after the effective date of this Act.

16 * Sec. 12. This Act takes effect July 1, 1985.

M E M O R A N D U M

March 27, 1985

To: Representative Al Adams
Chair, House Finance Committee

From: Karla L. Forsythe *Karla L. Forsythe*
General Counsel
Alaska Court System

Subject: House CS for CS for SB 1 (Judiciary)

You asked the court system to provide a sectional analysis of the above-numbered bill, which relates to the jurisdiction of the superior court and the district court and provides for an effective date.

Brief Summary

This legislation makes five changes in current law:

1. Increases district court jurisdiction from \$10,000 to \$25,000.
2. Provides that cases \$25,000 or under must be filed in district court, except as provided by supreme court rules.
3. Permits the district court as well as the superior court to hear domestic violence injunctions.
4. Permits claims against contractors' bonds to be filed in district court.
5. Permits liens to be enforced in district court up to \$25,000.

These changes would take effect July 1, 1985, and create no fiscal impact.

The overall purpose of this legislation is to make more efficient use of judicial resources by balancing the workload between the superior and district courts. Additionally, the increase to \$25,000 reflects inflationary trends, and enables the public to file more cases in district court. Although district court relies on the same civil rules of court as the superior court, matters generally are calendared more quickly, and more persons tend to represent themselves because issues are less complex.

Section 1. This section permits claims against contractors' bonds to be brought in district court, rather than in superior court as provided under current law. The amount of the bond is

\$5,000 for a general contractor and \$2,000 for a specialty contractor (AS 08.18.071(b)). Since the bond amount is well within the monetary jurisdiction of the district court, the court system believes these matters are more appropriately handled in district court.

HB 151 would increase the amounts of the bonds to \$10,000 for general contractors and \$5,000 for specialty contractors. This increase would still fall within both the current monetary jurisdiction and the jurisdictional increase proposed in this bill.

Section 2. Under current law, there is no requirement that actions within the district court monetary jurisdiction must be filed in district court. This section provides that these actions must be filed in district court, except under circumstances which will be provided by supreme court rule. The supreme court anticipates adopting a rule which will permit some lawsuits to be filed in superior court for good cause shown, such as complexity of issues. This section also clarifies that domestic violence injunctions could be filed either in district or superior court.

Section 3. This section increases the monetary jurisdiction of the district court from \$10,000 (\$15,000 in motor vehicle tort cases) to \$25,000 across the board. In 1959, district court jurisdiction was established statutorily at \$3,000. This figure was increased to \$10,000 in 1972. An increase to \$25,000 reflects inflation, while retaining the character of the district court.

This section also gives the district court the ability to hear domestic violence injunctions. Under current law, these injunctions must be heard by a superior court judge. Widening the availability of judges who can hear these matters should result in speedier determinations and more efficient use of judicial resources.

Paragraph (b) reiterates that petitions for domestic violence injunctions can be filed either in superior or district court.

Section 4. Under current law the district court may not hear actions involving criminal conversation and seduction upon a promise to marry. The House Judiciary Committee believed there was no reason to exclude these rarely-heard matters from the district court's jurisdiction, and amended the bill to provide that the district court may hear these matters. The court system has no objection to this amendment.

Section 5. Under this section, the list of specific functions and powers of district judges and magistrates is expanded to include the ability to issue temporary orders for domestic violence injunctions.

Section 6. This section amends the domestic violence statute to provide that petitions for injunctive relief may be filed in superior or district court. Also, under existing law the court may order the respondent to engage in personal or family counseling. The House Judiciary Committee added the authority to direct the respondent to engage in mediation. The court system has no objection to this amendment.

Section 7. This section also amends the domestic violence statute to permit filing of petitions in either superior and district court.

Sections 8 and 9. These sections delete references to superior court as the sole forum for domestic violence hearings. The statute will simply provide that these hearings are before the court.

Section 10. This section provides that actions to enforce liens can be filed in district court if they are within the monetary jurisdiction. The types of liens involved include attorney's liens, liens for wages, and mechanic's liens.

Section 11. This section clarifies that cases with a monetary value up to \$25,000 must be filed in district court only if they are filed after the effective date of the measure. Cases filed before that date may be filed either in superior or district court. This provision provides a clear cut-off for determining when cases must be filed in district court under this act.

Section 12. This section provides for an effective date of July 1, 1985, which provides sufficient time for the supreme court to adopt a rule authorizing certain actions to be filed in superior court, as well as time for the trial courts to prepare for this change.

KLF:smh

cc: Arthur H. Snowden, II

Offered: 1/23/85
Referred: Finance

Original sponsors: Ziegler and Ray

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 1 (Judiciary)

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 court and the district court; and providing for an effective date."

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8

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

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* Section 1. AS 22.10.020(a) is amended to read:

11

(a) The superior court is the trial court of general jurisdiction, with original jurisdiction in all civil and criminal matters, including probate and guardianship of minors and incompetents. An action that falls within the concurrent jurisdiction of the superior court and the district court may not be filed in the superior court, except as provided by rules of the supreme court.

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* Sec. 2. AS 22.15.030 is amended to read:

18

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

19

20

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

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

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

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29

(4) to give judgment without action upon the confession of

1 the defendant for any of the cases specified in this section, except
2 for a penalty or forfeiture imposed by statute;

3 (5) for establishing the fact of death of any person in the
4 manner prescribed in AS 09.55.020 09.55.060;

5 (6) [REPEALED.

6 (7) REPEALED.

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

11 (7) [(9)] for the foreclosure of a lien when the amount in
12 controversy does not exceed \$25,000 [\$10,000];

13 (3) [(10)] for the recovery of money or damages in motor
14 vehicle tort cases when the amount claimed exclusive of costs, inter-
15 est and attorney fees does not exceed \$25,000 [\$15,000];

16 (9) [(11)] over civil actions for taking utility service
17 and for damages to or interference with a utility line filed under
18 AS 42.20.030;

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

21 (b) Insofar as the civil jurisdiction of the district courts and
22 the superior court is the same, the [SUCH] jurisdiction is concurrent.
23 An action that falls within the concurrent jurisdiction of the super-
24 ior court and the district court may not be filed in the superior
25 court, except as provided by rules of the supreme court.

26 * Sec. 3. AS 22.15.050 is amended to read:

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

29 (1) an action in which the title to real property is in

1 question;

2 (2) an action for false imprisonment, libel, slander,
3 malicious prosecution, criminal conversation, seduction upon a promise
4 to marry, actions of an equitable nature (except as otherwise provided
5 by law [IN AS 22.15.030(a)(9)]), or actions in which the state is a
6 defendant.

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

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

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

15 (2) of a notary public;

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

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

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

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

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

28 (8) to order the temporary detention of a minor, or take
29 other action authorized by law or rules of procedure, in cases arising

1 under AS 47.10, when the minor is in a condition or surrounding dan-
2 gerous; or injurious to the welfare of the minor or others which
3 requires immediate action; the action may be continued in effect until
4 reviewed by the superior court in accordance with rules of procedure
5 governing these cases;

6 (9) to issue a temporary order for [EMERGENCY] injunctive
7 relief in cases involving domestic violence as provided in AS 25.35.-
8 010 and AS 25.35.020;

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

14 * Sec. 5. AS 25.35.010 is amended to read:

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

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

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

3 (2) direct the respondent to vacate the home of the peti-
4 tioner;

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

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

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

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

15 (7) direct the respondent to engage in personal or family
16 counseling;

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

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

1 may not grant more than one extension under this subsection.

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

4 * Sec. 6. AS 25.35.020(a) is amended to read:

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

18 * Sec. 7. AS 25.35.020(d) is amended to read:

19 (d) If an order under this section is granted without notice, a
20 hearing before the [SUPERIOR] court for injunctive relief under
21 AS 25.35.010 shall be scheduled by the [SUPERIOR] court at the earli-
22 est possible time consistent with the notice provisions of AS 25.-
23 35.010. If at the hearing the petitioner does not proceed with the
24 petition for injunctive relief, the [SUPERIOR] court shall dissolve
25 the emergency injunctive relief order.

26 * Sec. 8. AS 25.35.020(e) is amended to read:

27 (e) On three days notice to the petitioner, or on shorter notice
28 as the [SUPERIOR] court may prescribe, the respondent may make a
29 motion to the [SUPERIOR] court for the dissolution or modification of

1 an order for emergency injunctive relief under this section. The
2 [SUPERIOR] court shall hear and rule on the motion in an expeditious
3 manner.

4 * Sec. 9. AS 34.35.005(a) is amended to read:

5 (a) When an action is required to enforce a lien provided for in
6 [SECS. 5 - 425 OF] this chapter and the action falls within the
7 monetary jurisdiction of the district court, the action shall be
8 started in the district [SUPERIOR] court in the judicial district in
9 which the property upon which the lien attaches is located. An action
10 that exceeds the monetary jurisdiction of the district court shall be
11 started in the superior court in the judicial district in which the
12 property upon which the lien attaches is located. The procedure,
13 except as otherwise provided in [SECS. 5 - 45 OF] this chapter, is the
14 same as in the trial of an action to secure property to hold it for
15 the satisfaction of a lien against it.

16 * Sec. 10. This Act takes effect immediately in accordance with AS 01.
17 10.070(c).

Introduced: 1/14/85
Referred: Judiciary and
Finance

1 IN THE SENATE

BY ZIEGLER AND RAY

2

SENATE BILL NO. 1

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 district
7 court and the small claims jurisdictional limitation;
8 and providing for an effective date."

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

10 * Section 1. AS 22.15.030(a) is amended to read:

11 (a) The district court has jurisdiction of civil cases and
12 proceedings as follows:

13 (1) for the recovery of money or damages when the amount
14 claimed exclusive of costs, interest and attorney fees does not exceed
15 \$25,000 [\$10,000, EXCEPT AS PROVIDED IN (10) OF THIS SUBSECTION];

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

19 (3) for the recovery of a penalty or forfeiture, whether
20 given by statute or arising out of contract, not exceeding \$25,000
21 [\$10,000];

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

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

27 [(6) Repealed

28 (7) Repealed]

29 (6) [(8)] for the recovery of the possession of premises in

1 the manner provided under AS 09.45.070 - 09.45.160 when the value of
2 the property or of the arrears and damage to the property does not
3 exceed \$25,000 [\$10,000];

4 (7) [(9)] for the foreclosure of a lien when the amount in
5 controversy does not exceed \$25,000 [\$10,000];

6 (8) [(10)] for the recovery of money or damages in motor
7 vehicle tort cases when the amount claimed exclusive of costs, inter-
8 est and attorney fees does not exceed \$25,000 [\$15,000];

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

12 * Sec. 2. AS 22.15.040 is amended to read:

13 Sec. 22.15.040. SMALL CLAIMS. When a claim for relief does not
14 exceed \$5,000 [\$2,000] exclusive of costs, interest and attorney fees,
15 and request is so made, the district judge or magistrate shall hear
16 the action as a small claim unless important or unusual points of law
17 are involved. The supreme court shall prescribe the procedural rules
18 and standard forms to assure simplicity and the expeditious handling
19 of small claims.

20 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).