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STATE OF ALASKA
THE LEGISLATURE

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	2-5-85	1:30 pm
"	2-12-86	1:30 pm
"		
"		

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 119
 Title: An Act Relating to District Court Jurisdiction
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert G. Fisher, Fiscal Officer Phone: 264-0561
 Division: Alaska Court System Date: 2/4/85

Approved by Commissioner: *[Signature]* Date: 2/4/85
 Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Offered: 1/23/85
Referred: Finance

re HB 119

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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9

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

10

* 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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22

23

(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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25

26

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

27

28

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 (8) [(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).



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

JAN 31 1985

January 31, 1985

Representative Mike Miller
Chairman
House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Mike:

The Senate has passed and sent to the House CSSB 1, which would increase the jurisdiction of the District Court to \$25,000, and make other important changes in existing law.

I cast the lone vote against the bill in the Senate because of one provision which I understand was not analyzed in the Senate Judiciary Committee.

I refer to the provision which requires a plaintiff to file all suits for claims under \$25,000, or for certain injunctions, in the District Court, except to the extent that the Supreme Court may allow, by a possible new rule, filings of such cases in the Superior Court. Heretofore, plaintiffs bringing actions within the jurisdictional limit of the District Court could at their option file such actions in either the Superior Court or the District Court. Under the bill, if enacted, that freedom of choice will be gone.

Aspects of this measure which were not considered in the Senate include the following:

1. The bill would deprive parties of the opportunity to obtain the services of a 12-person jury as the finder of fact, since in the District Court, only 6-person juries are used.
2. Certain cases, although involving sums in dispute of less than \$25,000, raise knotty, unusual, or novel questions of law, and heretofore litigants could invoke the generally greater level of experience and scholarship on the Superior Court bench to consider such questions.

Representative Mike Miller
January 31, 1985
Page Two

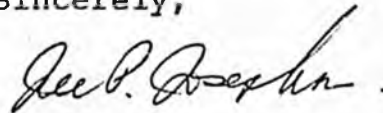
3. Although the purpose may be to reduce the workload of the Superior Court, I foresee the possibility of an increased number of appeals from the District Court to the Superior Court; I am not sure how the Court System evaluates this part of the workload issue.

I am advised that the Alaska Bar Association has not taken a position at this time. By copy of this letter to the Association, I am taking the liberty of inviting its officers to communicate with you, as well as with me, so that the thinking of those who practice in the courts can be taken into account.

Personally, I have no objection to a change in the jurisdictional amount that is contemplated in the bill. My concern is limited to what is, I think, a radical departure from our historic past because of the proposed ban upon filing of certain cases in the Superior Court that have always been cognizable there under concurrent jurisdiction.

With best wishes, I am

Sincerely,



Joe P. Josephson
State Senator

JPJ:rak

cc: The Honorable Jay Rabinowitz, Chief Justice
Arthur Snowden
Alaska Bar Association

14-0417
Levy
1/19/85 ✓

118

JAN 21 1985

BY THE JUDICIARY COMMITTEE
(For the Chief Justice of
the Alaska Supreme Court)

1 IN THE HOUSE

2 HOUSE BILL NO.

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:

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14 action that falls within the concurrent jurisdiction of the superior
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24 the value of the property claimed and the damages for the detention do
25 not exceed \$25,000 [\$10,000];

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27 given by statute or arising out of contract, not exceeding \$25,000
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7 (8)] for the recovery of the possession of premises in the
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17 and for damages to or interference with a utility line filed under
18 AS 42.20.030;

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20 violence under AS 25.35.010 and 25.35.020.

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22 the superior court is the same, the [SUCH] jurisdiction is concurrent.
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25 court, except as provided by rules of the supreme court.

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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
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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.-
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9 (10) to review an administrative revocation of a person's
10 driver's license or nonresident privilege to drive, and an administra-
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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
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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
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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
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22 est possible time consistent with the notice provisions of AS 25.-
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24 petition for injunctive relief, the [SUPERIOR] court shall dissolve
25 the emergency injunctive relief order.

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29 motion to the [SUPERIOR] court for the dissolution or modification of

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3 manner.

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7 monetary jurisdiction of the district court, the action shall be
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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).
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